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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, January 3, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

252
#2
1/3/84
I. Call to Order

Commissioner Alviar called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Alviar, Chan, Chinchilla, Duggan,
Moy, Payne

Commissioners not Present:

Staff Present: Hernandez, Henley, Swartz

DOCUMENTS DEPT.

JAN 11 1984

Commissioner Baird appeared on the record at 5:34 p.m.

Commissioner Curran appeared on the record at 5:38 p.m.

Commissioner Flynn appeared on the record at 5:41 p.m.

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III. Approval of the Minutes

MSC: To approve the minutes of December 20, 1983, with the following
corrections: All motions seconded by "Curran" should be changed
to read "Chinchilla;" "apparant" on page three should be changed
to read "apparent;" and the vote on page two regarding 2613
San Jose Avenue should read "Baird/Chinchilla: 5-0".

IV. Consideration of Appeals

A. 334 Noe

Landlord and tenant of apartment #1 agreed to a rent reduction at the
time the lease was signed, because of reduction in services due to
installation of individual heaters and metering. On appeal the land-
lord claims inadequate notice and that the rent reduction awarded to
the second unit was too great.

MSF: To deny the appeal. (Payne/Chinchilla: Chinchilla
withdrew his second)

MSC: To accept the appeal de novo at the Board level.
(Baird/Chinchilla: 3-2)

B. 1105 Bush Street

Tenant appealed denial of decrease in service due to lack of heat.
Landlord responded, claiming that tenants have not allowed him access
to make repairs. Tenants had been awarded a rent decrease in 1982,
which was to be restored when the heating system was repaired.

MSC: To deny the appeal. (Chinchilla/Payne: 5-0)

C. 404 Oak Street

Landlord requested a continuance of consideration of this appeal for
two weeks from receipt of the taped transcript of the hearings in
this matter, so as to have time to prepare a response.

MSF: To deny the appeal. (Chinchilla/Alviar: withdrawn)

MSC: To continue for two weeks. (Payne/Alviar: 5-0)

D. 743 Polk Street

Tenant appealed decision of hearing officer, who held that he had not met his burden of proof. Tenant had claimed decrease in service and failure to maintain; landlord showed photos of damage by tenant. Tenant has since moved into Section 8 housing.

MSC: To deny the appeal. (Payne/Chinchilla: 5-0)

E. 255 Buckingham Way

Tenant appealed on the basis of an inappropriate charge for a refrigerator, improper figuring of interest, and errors in calculation of amortization. Landlord and hearing officer responded, asserting that the refrigerator charge had been corrected, and that all calculations were made according to the Ordinance.

MSC: To deny the appeal. (Payne/Baird: 5-0)

V. Communications

1. An article from Newsweek (January 2, 1984) concerning the homeless was distributed.
2. An invitation to speak as part of an in-service training for Department of Social Service Workers directed to Director Hernandez was distributed.

VI. Director's Report

Director Hernandez reported that the Board of Supervisors had passed (6-5) on first reading an amendment to the Ordinance which would allow preemptory challenges to hearing officers. He commented that this would make us the only administrative body in the State which allows this.

VII. Old Business

1. Don Hesse, staff to the Human Rights Commission, appeared, in order to discuss uniformity of policy concerning rent increases for families with new born children. The Board directed staff to draft two policy directives for further discussion, one concerning situations where there is no written agreement concerning a charge for additional tenants and one where there is such a clause in the rental agreement.

The record should reflect that Commissioner Chinchilla has elected to refrain from participating in these discussions and votes due to a direct personal interest in the results of these actions.

MSW: To direct staff to advise tenants and landlords that rent increases for new born children where no rental agreement clause provides for an increase are illegal.
(Payne/Baird: 5-0)

MSC: To direct staff to draft a policy directive on the subject of rent increases for newborns where no provision exists in the rental agreement. (Payne/Baird: 5-0)

APPROVED: FEBRUARY 1984
BY: [illegible]

VIII. Consideration of Allegations of Wrongful Eviction

1. 2437 Post

MSC: To hold a hearing before the Board. (Baird/Payne: 4-1)

2. 3943 Sacramento

MSC: To accept the recommendation of the hearing officer.
(Baird/Alviar: 5-0)

3. 2613 San Jose

Staff recommended that the Board reconsider setting this case for a hearing since it is being pursued in the Municipal Court. Director requested a meeting to determine the best options.

IX. Calendar Items

1. Commissioner Payne will have the Artist Live-Work space policy directive ready for next week.

X. Adjournment

Commissioner Flynn adjourned the meeting at 7:20 p.m.

1/6/84:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 10, 1984 at 5:30 p.m. at the State Building 350 McAllister St. #1195

DOCUMENTS DEPT.

JAN 18 1984

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I. Call to Order

Commissioner Baird called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Duggan, Chan, Moy

Commissioners not Present: Flynn

Staff Present: Hernandez, Henley, Wicks

Commissioner Curran appeared on the record at 5:33 p.m. and went off the record at 7:11 p.m. Commissioner Payne appeared on the record at 6:16 p.m. Commissioner Duggan went off the record at 7:30 p.m. Commissioner Chan went off the record at 7:57 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of January 3, 1984, with the following corrections: Page 1, Approval of the Minutes: (Chinchilla/Alviar: 5-0); Page 2, Old Business #1: MSW: (Payne/Baird); Page 3, Wrongful Evictions: (Payne/Alviar: 5-0). (Chinchilla/Alviar: 4-0).

IV. Consideration of Appeals

A. 777 Bay St.

Tenant appealed Hearing Officer's decision allowing a \$25 monthly decrease in the tenant's rent to compensate for the loss of parking space. Tenants maintained that the value of the parking spot was greater than the award and that the Hearing Officer ignored evidence of failure to repair the premises.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Chinchilla/Alviar: 4-0).

B. 833 Jones St.

Six tenants appealed Hearing Officer's decision allowing landlord rent increases for capital improvements, operating and maintenance and utility pass-through. Tenants maintain that failure to repair evidence was not considered and that there are problems with the landlord's operating and maintenance information.

MSW: To deny the appeals. (Chinchilla/Alviar).

It was the consensus of the Board to put the case over for a week to enable the staff to evaluate the operating and maintenance evidence.

V. Appeal Hearing

A. 1250- 46th Ave.

An appeal hearing was scheduled for this address at 6:00 p.m. and the hearing was convened at 6:01 p.m. Appearing were Landlord-Appellant Stephen Lyon and Tenant-Respondent Vincent Massaro.

Landlord appealed Hearing Officer's decision granting tenant an award for decreased services in conjunction with gas shut-off for a gas leak. Landlord and tenant had an oral agreement for tenant to make some repairs in his unit, with materials costs to be borne by the landlord. Landlord asserted that tenant delayed the repair process and had already withheld rent over this matter.

Tenant maintained that he notified landlord that he was physically unable to do the work and that he had informed landlord that city inspectors said landlord must complete the repairs.

MSC: To find a decrease in services and to reduce the previously-granted award 50% (\$160.50).
(Chinchilla/Alviar: 5-0).

VI. Communications

A. A letter from Bob Perez of the District Attorney's office was received. It was the consensus of the Board that several staff members and Commissioners should meet with members of Mr. Perez's office to discuss follow-up of Rent Board referrals to the D.A.s' office. Commissioners Chinchilla and Payne volunteered to represent the Board at such a meeting.

VII. Director's Report

A. Executive Director Hernandez discussed the current status of the Britt proposals.

VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

- 275 Turk St. #303 & #407
- 377 Pine St. #65, 66, 67

MSC: To accept staff recommendations.
(Alviar/Moy: 5-0).

IX. Old Business

- A. The Commissioners discussed the wording of the policy directive concerning statute of limitations for decreases in services. It was the consensus of the Board to finalize the directive at the January 17, 1984 meeting.
- B. The memo to Hearing Officers relating to rent increases after the birth of a child was reviewed. The Commissioners decided to consider the memo for another week.
- C. Commissioner Payne distributed his draft of a policy directive concerning artist live-work space.

MSC: To adopt the sense of the directive, the final wording to be worked on by staff.
(Payne/Alviar: 5-0).

X. Calendar Items

January 17, 1984: Four appeal considerations

January 24, 1984: One appeal hearing - One eviction hearing

XI. Remarks from the Public

- A. Ted McCalla from Old St. Mary's Housing made several comments.

XII. Adjournment

Commissioner Baird adjourned the meeting at 8:06 p.m.

1/12/84:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, January 17, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

DOCUMENTS DEPT.

JAN 24 1984

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I. Call to Order

Commissioner Baird called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Payne, Curran,
Chan

Commissioners not Present: Duggan

Staff Present: Hernandez, Henley, Wicks

Commissioner Flynn appeared on the record at 5:36 p.m. Commissioner
Moy appeared on the record at 5:37 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 10, 1984.
(Chinchilla/Alviar: 4-0).

IV. Consideration of Appeals

A. 1430 Larkin St. #15 A

Landlords appealed Hearing Officer's decision allowing a 10 percent
reduction in base rent because of various decreases in service.
Landlords contended that they had received no notice of the hearing
and that tenant contributed to the alleged decreases.

MSC: To remand for a new hearing before another
hearing officer. (Payne/Alviar: 5-0).

B. 3540-42- 21st St.

Landlord appealed Hearing Officer's decision denying certain capital
improvements because some appeared to be repairs and others appeared
to be duplicated costs already granted in a prior hearing. Landlord
maintained that all work was capital improvement work and that there
were no duplicated costs.

MSC: To deny the appeal and uphold the Hearing
Officer. (Baird/Payne: 5-0).

C. 245 Powell St.

Landlord appealed Hearing Officer's decision granting a roll-back
of tenant's rent - nullifying two annual rent increases - because
of numerous decreases in service. Both current and prior

master-lessors appealed, alleging insufficient notice of the hearing and that the current master-lessor is not responsible for the acts of the former master-lessor.

MSC: To accept the appeal at the Board level on the record. (Chinchilla/Payne: 5-0).

V. Consideration of Continued Appeals

A. 340 Hayes St. (continued from December 6, 1983)

It was the consensus of the Board to allow the parties further time to work on a settlement agreement.

B. 404 Oak St. (continued from January 3, 1984)

Landlord appealed Hearing Officer's determination that a multi-story structure run by the American Yoga Society was covered by the Rent Ordinance in regards to a non-member residential tenant. Hearing Officer found tenant's residence was not exempt since tenant responded to an ad for a "room to rent" and is not a member of the Yoga Society. Landlord contends tenant is a guest member of the Society and that the building is exempt as a non-profit organization.

MSC: To accept the case de novo for a Board-level hearing. (Baird/Payne: 5-0).

C. 833 Jones St. (continued from January 10, 1984)

Six tenants appealed Hearing Officer's decision allowing landlord increases for capital improvements, operating and maintenance and utility pass-through. Tenants maintain that failure to repair evidence was not considered and that there are problems with the landlord's operating and maintenance information.

MSC: To allow Commissioner Payne to excuse himself from this vote. (Baird/Alviar: 5-0).

MSW: To deny the appeal. (Baird/Alviar).

It was the consensus of the Board to put the case over for one week to review the previous case on this address.

VI. Communications

A. One of the parties from 340 Hayes wrote to verify that a settlement is still being worked on in their case.

B. Several communications regarding the case at 245 Powell were received by the Board.

VII. Director's Report

- A. Executive Director Hernandez discussed the current state of the proposed amendments to the Ordinance.

VIII. Consideration of Allegations of Wrongful Evictions

- A. Report from Staff

1040 Dolores St. #206

MSC: To accept staff recommendation and set the case for a hearing at the Board level.
(Baird/Alviar: 5-0).

IX. Old Business

- A. Policy Directives:

- decrease in services: It was the consensus of the Board to continue this matter for one week.
- artists lofts: The final wording will be submitted January 24.
- newborns: The final wording will be submitted at the January 24 meeting.

X. Remarks from the Public

- A. Nina M. Eejima, tenants' attorney at 245 Powell, discussed procedural problems in her clients' case

XI. Calendar Items

- A. January 24, 1984:

- one appeal hearing
- one eviction hearing

- B. January 31, 1984:

- 5 appeal considerations
- 1 appeal hearing
- election of Board President
- Public Hearing on issue of limiting Board President's term to one year (7:00 p.m.).

- C. February 7, 1984:

- 5 appeal considerations
- 1 appeal hearing

XII. New Business

- A. Staff and Commissioners Chinchilla and Payne reported on their joint meeting with representatives of the District Attorney's Office to discuss coordinating efforts in preparing cases for possible prosecution.
- B. Mr. Hernandez discussed the Fire Department's concern about the relation of accumulated trash to arson fires in residential buildings in San Francisco.
- C. President Flynn offered his resignation as President of the Board, effective immediately.

Commissioner Baird proposed that the term of office for President of the Board be limited to one year. This matter will be discussed further at a public hearing on January 31, 1984.

MSC:

To hold the election for President of the Board at the January 31, 1984 Board meeting pursuant to the notice requirements of Rules and Regulations Section 2.10.
(Chinchilla/Alviar: 5-0).

XIII. Adjournment

President Flynn adjourned the meeting at 7:35 p.m.

1/19/84:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, January 24, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Commissioner Flynn called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Flynn, Payne,
Chan

Commissioners not Present: Duggan, Moy

Staff Present: Henley, Wolf

Commissioner Curran appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 17, 1984.
(Chinchilla/Alviar: 5-0).

IV. Consideration of Appeals

DOCUMENTS DEPT.

There were no appeal considerations

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V. Consideration of Continued Appeals

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A. 833 Jones (continued from January 17, 1984)

Six tenants appealed Hearing Officer's decision allowing landlord increases for capital improvements, operating and maintenance and utility pass-through. Tenants maintain that failure to repair evidence was not considered and that there are problems with the landlord's operating and maintenance information.

Commissioner Payne wishes the record to reflect that he is still excused from consideration of this appeal.

MSC: To deny the appeal. (Baird/Alviar: 4-0).

VI. Communications

A. The notice of Public Hearing scheduled for January 31, 1984 was received by the Board.

VII. Old Business

A. Eviction Coordinator Henley reported that representatives from the District Attorney's Office had been unable to attend the January 24th meeting, but will re-schedule.

- B. The Board scheduled a Public Hearing on new Rules and Regulations regarding the recently-passed amendments to the Ordinance for February 14, 1984. Staff will prepare draft language before that time.
- C. The Board discussed and finalized the wording of Policy Directive 1984-1, regarding retroactive decrease in services awards. Final wording for policy directives regarding newborns and artists' lofts will be submitted at the January 31st. meeting.

MSC: To adopt Policy Directive 1984-1.
(Chinchilla/Flynn: 4-1).

VIII. Appeal Hearing

A. 334 Noe St. #3

An appeal hearing was scheduled for 6:00 p.m. and began at 6:30 p.m. In attendance were landlord representatives Kern Wiley and Raymond Scarabosa and tenants Bruce Skogen, John Teamer, Janet Iosua and Peter Groubert.

Landlord and tenant of apartment #1 had agreed to a rent reduction at the time the lease was signed, because of a reduction in services due to the installation of individual heaters and metering. On appeal the landlord had claimed inadequate notice and that the rent reduction awarded to the other units was too great.

MSF: To uphold the Hearing Officer's decision regarding apartment #1 (Payne/Flynn: 2-3)

MSC: That the lease provision regarding apartment #1 be declared void and all tenants be treated equally. (Baird/Chinchilla: 3-2).

Upon conferring, landlords and tenants came up with a stipulated agreement which granted tenants in studio apartments a \$20 and tenants in one-bedroom apartments a \$25 decrease retroactive to the date specified in the Hearing Officer's decision.

MSC: To ratify the agreement arrived at by the parties.
(Baird/Chinchilla: 5-0).

IX. Eviction Hearing

An eviction hearing was scheduled for 6:30 p.m. and began at 6:50. The landlord, Michael Sutherland, failed to appear. Tenants Edmond and Teri Howe, Edward Gray and Anita Hall were present and were represented by Steven Schectman of the West Bay Law Collective.

A hearing had been held regarding eviction notices, rent increases, and demands for increased security deposit issued to Edmond and Teri Howe; but as all of the tenants in the building had received several of the same notices, these cases were consolidated although only the issue of wrongful eviction was addressed at this hearing.

MSC¹: That sufficient evidence was presented to indicate attempted unlawful evictions. (Baird/Payne: 5-0).

At this time (7:20) the Commissioners went into Executive Session and returned on the record at 7:30 p.m. to make the following motion:

MSC²: To refer this case to the City Attorney for injunctive relief. In addition, the Board will consult with the District Attorney regarding possible criminal prosecution. (Payne/Alviar: 5-0).

X. New Business

A. The election of Board President will take place on February 7, 1984.

XI. Calendar Items

January 31, 1984:

5 appeal considerations
1 appeal hearing - 6:00 p.m. (245 Powell)
consideration of evictions: (245 Powell)
election of President
Public hearing: limiting officer's term - 7:00 p.m.

February 7, 1984

5 appeal considerations
1 appeal hearing - 6:00 p.m. (404 Oak)

February 14, 1984

5 appeal considerations
1 eviction hearing - 6:00 p.m. (1040 Dolores)
Public hearing: changes in percentage of annual increase.
(Britt amendment) - 7:00 p.m.

XII. Adjournment

Commissioner Flynn adjourned the meeting at 7:40 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, February 7, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

Continuation of Regular Meeting
from Tuesday, January 31, 1984

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FEB 17 1984

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I. Reconvening of Continued Meeting

Commissioner Flynn reconvened the meeting continued from January 31, 1984.
The Commissioners came back on record at 5:36 p.m.

Present were Commissioners Alviar, Baird, Chinchilla, Chan, Curran,
Flynn, Payne, and Moy. Commissioner not present: Duggan.

Staff Present were: Henley, Hernandez, Vitrano, and Wicks.

Commissioner Curran went off the record at 6:15 p.m.; Commissioner
Alviar went off the record at 7:09 p.m.

II. Election of Officers

A. President

Commissioner Payne nominated Commissioner Baird for the office of
President of the Board; Commissioner Chinchilla seconded the nomina-
tion. Commissioner Baird was elected unanimously (5-0).

Commissioner Chinchilla noted that it is not necessary to second a
nomination.

B. Vice-President

Commissioner Flynn nominated Commissioner Payne; Commissioner Alviar
nominated Commissioner Chinchilla. Commissioner Chinchilla was
elected (4-1).

III. Adjournment

President Baird adjourned the meeting at 5:41 p.m.

* * * * *

MINUTES OF THE REGULAR MEETING OF
Tuesday, February 7, 1984

I. Call to Order

President Baird called the meeting to order at 5:42 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Flynn, Payne, Chan, Curran, Moy.

Commissioner not Present: Duggan

Staff Present: Henley, Hernandez, Vitrano, Wicks

III. Approval of the Minutes of January 31, 1984

MSC: To approve the minutes of January 31, 1984, with the following corrections: Page 3, Appeal Hearing A: "MSW:valued at 50 percent..."; page 4, IX Old Business, B: "...for changes in the Rules and Regulations..." (Chinchilla/Payne: 5-0).

IV. Appeal Considerations

A. 1695 Northpoint

Eleven tenants appealed Hearing Officer's decision allowing landlord capital improvement costs for a solar heating system and denying tenant's defense of deferred maintenance. Hearing Officer subtracted the value of PG&E rebates but would not consider decreased utility costs to the landlord or tax advantages gained from the solar unit.

MSC: To uphold the Hearing Officer and deny the appeal. (Payne/Alviar: 5-0).

B. 422- 44th Ave., #2

Landlord appealed Hearing Officer's decision determining that an alleged co-tenant was in fact merely a guest; and that a rent increase based on this additional person was therefore null and void.

Tenant appealed Hearing Officer's ruling that repair needs did not constitute a reduction in services.

MSF: To deny both appeals. (Chinchilla/Alviar: 2-3).

MSC: To remand the case to the same Hearing Officer to consider the landlord's appeal; to deny the tenant's appeal. (Flynn/Payne: 3-2).

C. 455 Cole St.

Landlord appealed Hearing Officer's decision on remand. Landlord had earlier appealed Hearing Officer's decision awarding tenant for decreases in service when the central heating system provided by

the landlord has converted to individually-metered heaters, the cost to be borne by each tenant. The landlord maintained that he had compensated for the new charge by not yet imposing a 7 percent annual increase or passing on the costs of the new heaters. Landlord further maintained that the decrease amount had been incorrectly calculated.

The Board remanded for technical corrections and consideration of the capital improvement costs.

Since landlord had stated he did not intend to pass on capital improvements at this time, no verified evidence of such costs had been introduced. On remand it was held that the new electric heaters would be more expensive to use than the previous gas boiler system and that the value of the decrease in services would not be a "wash out" when compared to the cost of the improvement.

MSC: To hear the case de novo at the Board level.
(Payne/Alviar: 4-1).

D. 3415-17 Irving

Landlord appealed Hearing Officer's determination that the landlord had not carried the burden of proof on the issues of comparable rents and hardship. Only the annual 7 percent increase was allowed. Landlord insisted that the units were rented at 50 percent below market rent despite annual increases.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Chinchilla/Payne: 5-0).

E. 2121 Turk St.

Landlord appealed Hearing Officer's ruling that a previously - noticed 7 percent increase was null and void because of failure to properly maintain the premises. Landlord contended that she had made other improvements and that some of the repairs were delayed beyond her control.

MSC: To accept the appeal de novo at the Board level.
(Flynn/Payne: 5-0).

F. 1132 Greenwich

Tenant appealed Hearing Officer's decision determining that the Rent Board had no jurisdiction to adjudicate a dispute over shared utility costs since the dispute arose four years before the effective date of the Ordinance and has been the subject of a court suit.

MSC: To uphold the Hearing Officer and deny the appeal.
(Chinchilla/Payne: 5-0).

G. 57 Ottawa St.

Tenant appealed Hearing Officer's decision that tenant had agreed to share utility costs, and therefore increases in these expenses

were not rent increases; and that a reduction in the use of a garage area did not constitute a decrease in housing service since the landlord allowed the tenant to use the space as a gratuity.

- MSF: To accept the appeal and remand the case to a new Hearing Officer. (Payne/Alviar: 2-3).
- MSC: To deny the appeal and uphold the Hearing Officer's decision. (Chinchilla/Flynn: 3-2).

V. Appeal Hearing

A hearing was scheduled for 6:00 p.m. Attending were Landlord-Appellant Walter Culpepper.

Landlord appealed Hearing Officer's determination that a multi-story structure run by the American Yoga Society was covered by the Rent Ordinance in regards to a non-member residential tenant. Hearing Officer found tenant's residence was not exempt since tenant responded to an ad for a "room to rent" and is not a member of the Yoga Society. Landlord contends tenant is a guest member of the Society and that the building is exempt as a non-profit organization. The issues have been addressed in court, and the tenant has moved.

After discussion among the Board and Appellant, the following motion was passed:

- MSC: To set aside the decision of the Hearing Officer as null and void; the decision has no force or effect of law. (Flynn/Alviar: 5-0).

VI. Communications

- A. Randy Shaw, Esq., requested a continuance of the case on 775 Post. A one week continuance to February 21 was granted.
- B. Appeals Counselor Alicia Wicks submitted a memo to the Commissioners suggesting possible procedures for dealing with landlord "hardship" cases.
- MSC: To direct the Executive Director to encourage the filing of petitions even if hardship is the primary issue, in which case the petitioner will exhaust all remedies at the Hearing Officer level. The Hearing Officer will make recommendations - not findings - on the issue of hardship. (Flynn/Alviar: 5-0).
- C. The Board was given a copy of the Mayor's letter of January 19, 1984, concerning the newest Ordinance changes. A copy of the January 9, 1984 draft of the Ordinance was also distributed.
- D. The Commissioners approved the decision on 334 Noe St.

- E. A draft of Rules 6.10 was provided to the Board for consideration before the February 14, 1984 Public Hearing on the Rules change.
- F. The staff furnished the Board with a copy of a letter from Mother Jones on social-service worker burn-out.

VII. Director's Report

- A. Director Hernandez mentioned that he and several staff members would be making speaking engagements on the issue of the recent Ordinance change.
- B. Commissioner Payne volunteered to look into informing the non-English speaking citizens of San Francisco about the recent law changes. He suggested informational ads in local buses.

VIII. Consideration of Allegations of Wrongful Evictions

A. Staff Report

Eviction Counselor Henley reported on the evictions at 245 Powell. After discussion, the Commissioners adopted the following:

MSC: To set a hearing before the Board for February 14, 1984; to instruct the staff to contact the District Attorney on this matter. (Payne/Chinchilla: 4-1).

IX. Old Business

- A. The Board decided to discuss at the February 28, 1984 meeting the effect of a contractual agreement on the possibility of increasing rent for the birth of a child.
- B. Commissioner Payne agreed to handle arrangements for a March 3, 1984, meeting of the Board to discuss their role in administration of the Rent Board.

X. Calendar Items

February 14, 1984

2 appeal considerations
1 eviction hearing - 6:00
Public Hearing - 7:00

February 21, 1984

5 appeal considerations
1 appeal hearing

XI. Remarks from the Public

1. Benjamin H. Ballard, attorney for the tenant at 1132 Greenwich, asked for clarification of several aspects of the appeals procedure.

XII. Adjournment

President Baird adjourned the meeting at 7:19 p.m.

2/10/84:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, February 21, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

A. Executive Session

Before the reconvening of the meeting of February 14, 1984, President Baird called for an Executive Session at 5:34 p.m. to discuss pending litigation with a deputy city attorney. The Commissioners returned on the record for the following motion:

MSC: That the case be granted another hearing.
(Flynn/Alviar: 5-0)

B. Continuation of the Regular Meeting from Tuesday, February 14, 1984

I. Reconvening of Continued Meeting

Commissioner Baird reconvened the meeting continued from FEB 29 1984
February 14, 1984, at 5:51 p.m.

Commissioners Present: Alviar, Baird, Chan, Chinchilla,
Flynn and Payne
Commissioner not Present: Moy
Staff Present: Hernandez, Francis, Vitrano
and Beaufait

It was agreed that the continuation of the meeting of February 14, 1984, be placed under Old Business on the agenda.

C. Minutes of the Regular Meeting of Tuesday, February 21, 1984

I. Call to Order

Commissioner Baird called the meeting to order at 5:53 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Chan, Chinchilla,
Flynn and Payne
Commissioners not Present: Moy
Staff Present: Hernandez, Francis, Vitrano
and Beaufait

Commissioner Chan went off the record at 7:45 p.m.
Commissioner Flynn went off the record at 8:06 p.m.

III. Approval of the Minutes of January 31, 1984

MSC: To approve the minutes of January 31, 1984 with
the following corrections: Page 1, Approval of
the Minutes, MSC: (Alviar/Chinchilla: 5-0); Page 4
after "severe fire" there should be a comma, not
a semi-colon. - (Alviar/Chinchilla: 5-0)

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IV. Consideration of Appeals

A. 34 Turk St.

The Landlord appealed Hearing Officer's decision based on three factors. First, that the building is exempt from the Rent Ordinance. Second, the property in question has "undergone substantial rehabilitation after the effective date of the ordinance." Third, the Hearing Officer did not take into consideration that "the landlord has given substantial benefits to the Tenants without increasing their rent."

MSW: To deny this appeal. (Chinchilla/Payne)

Commissioner Chinchilla withdrew his motion and consideration and further discussion of this appeal will take place on February 28, 1984.

B. 40 Cervantes Blvd, #3,5 and 6

Landlord appealed Hearing Officer's decision which awarded a decrease in services due to installation of individual gas furnaces as replacement for the old boiler and for loss of a coin-operated laundry system. Landlord maintained that the PG&E bills used for the decrease included costs of services still provided; and that the laundry system had been installed by a previous landlord without permits in an illegal rooftop structure.

MSC: To accept this case de novo on the Board level.
(Payne/Flynn: 5-0)

C. 1233 California St., #108

Landlord appealed Hearing Officer's decision alleging that the Hearing Officer abused her discretion, and that the tenant failed to meet her burden of proof.

MSC: To remand this case to a new Hearing Officer for a de novo Hearing. (Chinchilla/Payne: 5-0)

D. 775 Post #311 and #601

Landlord appealed the decision alleging that the Hearing Officer abused her discretion by not granting a postponement and by allowing hearsay evidence.

Commissioner Flynn excused himself from consideration of this appeal due to a conflict of interest.

Commissioner Baird went on record asking that the minutes reflect his view that under common law when one member has a conflict of interest, the entire Board has a conflict in interest. However, the rule of necessity must prevail under these circumstances.

MSC: To remand the case to a new Hearing Officer for a de novo Hearing. (Payne/Alviar: 3-1)

V. Communications

- A. Conflict of interest forms were handed out to all Board members. Commissioner Payne asked if stocks and bonds were required to be reported. Staff will attempt to seek clarification on this point.
- B. Maryly Snow, artist and Curator of Slides and Photographs at the Department of Architecture, wrote a letter to the Board concerning their recent policy statement on artists' live-work space. Her comments will be discussed at the next Board Meeting on February 28, 1984.
- C. The Monthly report of statistics which include petitions, appeals, evictions etc. filed during the month of January 1984 was given to the Board.
- D. It was announced that a management audit of the Rent Board Office is being performed by Harvey Roses' Office.

VI. Director's Report

- A. Executive Director Hernandez reported that over the past four week he has done 9 T.V., radio and newspaper interviews.
- B. Mr. Hernandez also announced that interviews are currently being conducted for two staff positions.

VII. Appeal Hearing

- 1. 1520 Gough St., #206 (original consideration January 31, 1984)
Neither parties nor representatives appeared for the scheduled hearing. Staff will contact the parties to determine the status of the case.
- 2. 455 Cole St. #8, 10 & 11 (original consideration February 7, 1984)
A Hearing de novo was scheduled for 6:30 p.m. and began at 6:37 p.m. Present for the landlord was Edward Printz. Tenants James Jackson (apartment #8) and Sharon Grossman (apartment #10) appeared in pro per.

The landlord in this case appealed the Hearing Officer's decision on remand. Landlord had earlier appealed the Hearing Officer's award to the tenants for a substantial decrease in housing services when the central heating system provided by the landlord was converted to individually metered heaters, the cost to be borne by each tenant. The landlord maintained that he had compensated for the new charge by not yet imposing a 7% annual increase or passing on the costs of the new heaters. The landlord further maintained that the decrease amount had been incorrectly calculated.

The Board remanded for technical corrections and consideration of the capital improvement cost.

Since the landlord had stated that he did not intend to pass on capital improvements at this time, no verified evidence of such costs had been introduced. On remand it was held that the new electric heaters would be more expensive to use than the previous gas boiler system and that the value of the decrease in services would not be a "wash out" when compared to the cost of the improvement.

At the regular meeting of February 7, 1984 the Board voted to hear the case De Novo on the Board level.

Mr. Printz testified that there was a double error to first refuse to allow evidence to come in and then, on remand, to turn the petitioner down because no evidence could be found. Both tenants raised the issue that their rent already included these capital improvement costs.

Tenants Jackson and Grossman also testified that they felt the landlords' action in this matter is retaliatory.

MSF: To set aside the Hearing Officer's decision and find that there was no substantial decrease in housing services at the time the heaters were installed because the landlord did not seek a capital improvement passthrough; and to adjust and re-calculate the P.G.&E. passthrough to the tenants downward. (Flynn/Payne: 2-3)

MSC: To establish that there was a decrease of \$8.98 per room on the P.G.&E. and that this amount will be offset against the \$6.10 charged for the capital improvement. (Chinchilla/Alviar: 3-2)

VIII. Old Business

A. Reconvening of Continued Meeting from February 14, 1984

The continuation of the noticed Public Hearing to discuss changes in the Rules and Regulations was scheduled for 5:30 p.m. and began at 7:13 p.m.

The following parties spoke to the issue:

Michael Harvey - Affordable Housing Alliance and
Ted McCalla - Speaking on behalf of himself.

The above speakers touched on several issues which included:

1. That the Consumer Price Index be used for the calendar year, not the actual year.
2. That the language should be "tightened and clarified."
3. That a cap should be included on operating and maintenance.
4. That the process of electing the President of the Board should be made more public.

MSC: To adopt Rules changes in 1.12, 4.10, 4.13, and 6.10
(Flynn/Alviar: 5-0)

- B. There will be an Executive Session involving a meeting with the District Attorney's Office on Tuesday, February 28, 1984 at 4:00 p.m.
- C. A report was given as to the status of the case involving 1668 Market which is at the City Attorney's Office for investigation.
- D. Board decisions involving 1040 Dolores and 245 Powell were approved.

IX. Calendar Items

- A. Rules and Regulations Section 6.11 will be discussed next week under old business.
- B. The issue of rent increases involving children is now scheduled for Tuesday March 6, 1984 not February 28th.

X. Remarks

Ted McCalla made various comments regarding the burden on female tenants making neighborhood surveys for comparables. He also submitted written comments on additional rent surcharges.

XI. Adjournment

Commissioner Baird adjourned the meeting at 8:36 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, February 28, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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I. Call to Order

President Baird called the meeting to order at 4:06 p.m.

II. Roll Call

Commissioners Present:

Baird, Chinchilla, Payne

Commissioners Not Present:

Moy

Staff Present:

Francis, Hernandez, Wicks, Wolf

Commissioner Chan appeared on the record at 4:53 p.m. and went off the record at 6:14 p.m. Commissioner Alviar appeared on the record at 4:54 p.m. Commissioner Flynn appeared on the record at 5:30 p.m. Staff members Francis and Wolf went off the record at 5:30 p.m.

III. Executive Session I

President Baird convened the noticed Executive Session at 4:08 p.m. to discuss instigating criminal prosecution in unlawful eviction cases. Several members of the District Attorney's Office were present for the discussion. The Executive Session was closed at 5:30 p.m.

IV. Approval of the Minutes of February 21, 1984

MSC: To approve the Minutes of February 21, 1984 with the following corrections:

Page 1:

Executive Session:

"MSC: To excuse Commissioner Payne.
(Alviar/Flynn: 5-0)"

Page 2:

IV-Consideration of Appeals

A: "...withdrew his motion. Con-
sideration..."

B: "...decrease in services due to..."

D: "MSC: To excuse Commissioner
Flynn (Chinchilla/Payne: 5-0)."

"Commissioner Baird went on record asking that the Minutes reflect his view that the entire Board has a conflict of interest."

Page 4:

VII-Appeal Hearing

2: "Both tenants raised the issue that their rent already included a capital improvement cost pass-through and that the new rent was therefore incorrectly calculated."

"MSC: (Chinchilla/Alviar: 5-0)"

(Chinchilla/Alviar: 5-0)

V. Appeal Consideration

A. 1475 Clayton

Tenant appealed Hearing Officer's decision denying tenant an award for decreases in service. Although the need for repairs was established, no decrease was proved since the conditions at issue were present when tenant moved in (approximately two weeks before he filed his petition with the Rent Board).

MSC: To uphold the Hearing Officer and deny the appeal.
(Payne/Flynn: 5-0)

B. 1048 Larkin

Landlord appealed determination of the Hearing Officer granting tenant a decrease in services award because the residential hotel did not have the number of common bathrooms required by law. Hearing Officer granted the award because tenant claimed representations had been made before he moved in that the correct number of bathrooms were operable.

MSC: To remand the case to a new Hearing Officer for a de novo hearing. (Flynn/Alviar: 5-0)

C. 34 Turk (continued from February 21, 1984)

It was the consensus of the Commissioners to continue the case as they await comments from the City Attorney's Office.

VI. Communications

- A. Staff member Alicia Wicks distributed forms to update the Commissioners' addresses and phone numbers.
- B. Tenant Dixon from 1235 Bush requested a second continuation of his appeal consideration. The Commissioners denied the request since they had originally voted to allow only a two week continuance. The case will therefore be considered March 6 as scheduled.

VII. Director's Report

- A. Director Hernandez gave an update on the appeal at 1668 Market. It was the consensus of the Board to schedule the case for an appeal hearing.

- B. The Executive Director and a number of Commissioners noted that they have another meeting they wish to attend March 20, 1984.

MSC: To cancel the meeting of March 20, 1984.
(Payne/Alviar: 5-0)

- C. Director Hernandez discussed the allocation granted the Rent Board for installation of a computer system. Commissioner Payne requested a breakdown of the involved costs.

- D. The Board approved the decisions on 404 Oak and 815 -25th Avenue.

VIII. Old Business

- A. Appeals Coordinator Wicks reported on the following cases:

1520 Gough - The landlord will supply a written statement that the case has been concluded and his appeal withdrawn.

340 Hayes - A further letter of inquiry as to the status of this appeal will be sent to the parties.

- B. Rule 6.11: The proposed language for this Rule change was discussed.

MSC: To adopt the language of the Staffs' draft "A" concerning Rule 6.11. (Chinchilla/Alviar: 3-2)

- C. Artists' Lofts

The Commissioners noted the communication from artist Maryly Snow with her concerns about the recent policy directive on artists' live-work spaces. It was the consensus of the Board that her proposed changes were legislative and beyond the control of the Rent Board.

- D. Conflict of Interest Statement

Director Hernandez reported that Staff member Susan Francis was preparing a clarifying memo for distribution to the Board.

IX. Calendar Items

March 6, 1984

4 appeal considerations
1 appeal/eviction hearing
1 eviction hearing

March 13, 1984

4 appeal considerations
1 appeal hearing

March 20, 1984

NO MEETING

X. Executive Session II

The Board went into Executive Session at 6:26 p.m. to discuss the earlier meeting with the representatives of the District Attorney's Office. They came back on the record at 6:41 p.m.

XI. Appeal Hearing

A. 2121 Turk - The appellant wrote to inform the Board that the case had been settled and the appeal therefore withdrawn.

B. 147 Bright - A hearing was scheduled for 6:00 p.m. Only the tenant-respondent was present at that time. A delay was granted to allow the landlord-appellant to appear. At 6:43 the hearing was opened, the continuing absence of the appellant being duly noted.

MSC:	To dismiss the appeal without prejudice due to the absence of the landlord-appellant. If mitigating circumstances are raised by the landlord, the case will be reopened March 13, 1984. (Alviar/Flynn: 4-1)
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XII. Executive Session III

The Commissioners went into Executive Session at 6:49 p.m. to conclude their discussion of pursuing criminal prosecution for unlawful eviction cases. They returned on the record at 7:06 p.m. and gave a public recap of the meeting with the District Attorney's Office.

XIII. Adjournment

President Baird adjourned the meeting at 7:08 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, March 6, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Baird called the meeting to order at 5:31 p.m.

MAR 14 1984

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II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Flynn, Payne
Commissioners Not Present: Chan
Staff Present: Hernandez, Wicks

Commissioner Moy appeared on the record at 5:33 p.m.
Commissioner Payne went off the record at 6:49 p.m.

III. Approval of the Minutes of February 28, 1984

MSC: To approve the Minutes with the following
corrections:

Page 2, V-B: (Flynn/Payne)
Page 3, VII-B: (Flynn/Alviar)

(Chinchilla/Alviar: 5-0)

IV. Appeal Considerations

A. 1235 Bush (Continued from February 21, 1984)

Tenant appealed Hearing Officer's determination that no decrease in housing services or failure to repair had been proved. Tenant maintained that there was a problem with pests, that there was not enough heat, and that there are leaks in the building. Tenant had attempted for approximately 4 months to obtain reports from various city building inspectors.

MSC: To deny the appeal and uphold the
Hearing Officer's decision.
(Chinchilla/Flynn: 5-0)

B. 2119 Scott

Tenant appealed Hearing Officer's decision that a 40% rent increase was valid since the property was exempt from the Ordinance because of owner-occupancy. Hearing Officer determined that the two townhouses constituted one "building" since they share a common foundation and basement. Landlord has applied for condominium conversion but has not sold either unit. Hearing Officer held that the parcel is not held to be divided into two separate legal parcels - thus legally creating two distinct buildings - until one of the units is sold.

MSC: To uphold the Hearing Officer and deny
the appeal. (Flynn/Alviar: 5-0)



C. 1360 Lyon

The Commissioners agreed by consensus to postpone consideration of this case pending the outcome of the parties' current effort to reach a settlement.

D. 3848 Sacramento

Landlord appealed Hearing Officer's decision that repair and maintenance problems - successfully raised as a bar to a rent increase January 1983 - had not been remedied. Further, landlord contended that he was not precluded from imposing further rent increases merely because he applied for condominium conversion in December of 1982. Hearing Officer held that the Subdivision Code - as specifically applied to this property by the Department of Public Works - dictated a two-year moratorium of rent increases after application for conversion.

MSC:

To uphold the Hearing Officer and
deny the appeal.

(Chinchilla/Alviar: 5-0)

V. Communications

A. Tenant William McCallum of 340 Hayes wrote in response to the Board's request for an update of the parties' settlement efforts concerning a landlord's appeal. It was the consensus of the Commissioners that the continuance granted since December 6 was revoked and that the appeal hearing would be rescheduled for the near future.

B. The Commissioners were given copies of a newspaper article following up the case at 1040 Dolores #206. The 85-year old tenant obtained a temporary restraining order preventing her landlady from evicting her. This was the first such temporary restraining order issued pursuant to the San Francisco Rent Ordinance.

Commissioner Chinchilla referred to the end of the article where it was mentioned that the Rent Board had found a wrongful eviction but taken no further action. Commissioner Chinchilla wanted it on the record that the Board decided to take no further action for the following reasons (as noted in the Minutes of February 14, 1984):

1. No other cases have been filed in protest;
2. This landlord does not appear to be involved in other evictions; and
3. No Unlawful Detainer suit has been filed against this tenant.

C. Director Hernandez referred to the materials sent the Commissioners concerning the proposed computer system for the Rent Board Office.

VI. Director's Report

A. Director Hernandez discussed the landlord-tenant tug-o-war sponsored as part of the coming San Francisco Fair.

B. Executive Director Hernandez mentioned the various media presentations by Rent Board Staff members in the past few weeks. On March 7 Staff members Wolf and Henley and Commissioner Chinchilla will conduct a bilingual presentation for the Spanish-speaking community at Horace Mann School, sponsored by the Mission Education Project, Incorporated.

- C. The Commissioners were informed that the Staff is conducting interviews this week for another Counselor.

VII. Old Business

- A. Commissioner Chinchilla stated that he is working on the issue of rent increases for newborns when the rental contract speaks to the issue. He will report to the Board as soon as he's finished his research.

VIII. New Business

- A. Director Hernandez detailed the procedure the Staff is pursuing to use a messenger service that employs South-East Asian refugees. The service is sponsored by the Renaissance Project.

IX. Calendar Items

March 13, 1984- 4 Appeal considerations and 1 appeal hearing.
March 20, 1984- No Meeting

X. Remarks From the Public

1. Attorney Nancy Lenvin asked how she could receive updates on law changes. She was advised to submit stamped, self-addressed envelopes to receive the weekly Minutes and Agenda Calendar.

XI. Appeal Hearing

A. 91 Central

An appeal hearing was scheduled for 6:00 and began at 6:08 to consider an appeal from a decrease in services award. Attending were landlord-appellant James Koski and his attorney Nancy Lenvin, as well as tenants-respondents Robert Canizales, Joseph Rogers, Edward White, and Lyssa Friedman.

Landlord appealed Hearing Officer's ruling that tenants should receive a \$10.00 monthly decrease in rent to correspond to a reduction in services, in that landlord discontinued certain maintenance efforts in the common areas and no longer picked up garbage on each floor. Tenants stated they were now required to carry their garbage down from two to four stories to the street-level. Tenants testified that no garbage cans had been provided on the bottom level, but this problem is being corrected. Landlord mentioned that no decrease in services petition had been filed by the tenants. Landlord had reduced the rent by \$2.00 per month and maintained this was sufficient to compensate for the inconvenience of the new garbage system.

Landlord also disputed Hearing Officer's recommendation that the owner's alleged attempt to evict one of the tenants constituted a wrongful eviction. Tenant White, a four-year resident of the building, stated that twice since last October the landlord has orally indicated that he would sometime in the near future be moving into Mr. White's unit. Tenant requested to move into either of the two comparable units that became vacant since October, but landlord rented them to new tenants. Landlord reaffirmed his intent to move into tenant's unit and that personal circumstances alone have prevented him from

doing so. Landlord stated he will give a proper written notice when his plans are firm.

MSC:

To vacate the Hearing Officer's decision; to find that there is no significant decrease in services but that the \$2.00 reduction offered by the landlord is appropriate compensation; that there has been no attempted wrongful eviction. (Payne/Flynn: 5-0)

XII. Eviction Hearing

A. 91 Central (See above)

B. 1203 Clayton

A hearing was set for 6:30 p.m. and discussion began at 6:45 p.m. Commissioner Flynn excused himself since Commissioner Moy had been present at the original consideration.

Appearing was landlord Joseph Phillips. The tenant did not appear, and landlord stated that the tenant had vacated approximately two weeks ago.

Landlord appealed Hearing Officer's decision concluding that landlord had acquiesced in accepting the subtenancy of the respondent, since there was no written rental agreement prohibiting subtenancy and the landlord accepted the tenant's checks for 3 years. Hearing Officer therefore concluded that the unit did not become decontrolled when an original tenant moved out; and an increase based on vacancy was null and void.

Landlord had attempted to evict tenant in Small Claims Court on the nonpayment of the higher rent. Hearing Officer noted that the case was dismissed because landlords were the Wrong Party Plaintiff. The eviction notice was also found to be defective by the Hearing Officer.

Since the tenant was not available, it was the consensus of the Board to continue the case. It was requested that the Staff attempt to contact the tenant and inquire if he wishes to attend a hearing on this matter. The discussion was closed at 6:53 p.m.

XIII. Executive Session

The Commissioners went into Executive Session at 6:54 p.m. to discuss lawsuits pending with the District Attorney's Office. Director Hernandez agreed to call the District Attorney's Office to obtain a status report on several urgent cases.

The Commissioners came back on the record at 7:04 p.m.

XIV. Adjournment

President Baird adjourned the meeting at 7:08 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, March 13, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

52
2
2/84
I. Call to Order

President Baird called the meeting to order at 5:31 p.m.

II. Roll Call

Commissioners Present: Alviar; Baird; Chinchilla

Commissioners not Present: Flynn; Payne

Staff Present: Hernandez; Wicks

Commissioner Chan appeared on the record at 5:35 p.m. Commissioner
Moy came on the record at 5:42 p.m.

III. Approval of the Minutes of March 6, 1984

MSC: To approve the Minutes of March 6, 1984.
(Alviar/Chinchilla: 3-0).

IV. Consideration of Allegations of Wrongful Evictions

1. Eviction Counselor Henley reported on the status of follow-up of activities on the cases sent for further action to the City Attorney and District Attorney.

V. Communications

1. The tenant at 340 Hayes submitted letters to show that efforts to reach a settlement are progressing smoothly. It was the consensus of the Board to defer holding a hearing in order to allow the parties to reach a solution themselves.
2. Parties at 2144 Green, 777 Arguello, and 368 Prentiss submitted further comments on their cases on appeal.
3. The February 1984 statistics were distributed to the Commissioners.

VI. Old Business

1. Commissioner Chinchilla submitted a memo reflecting his research regarding rent increases for newborns when the contractual agreement speaks to the issue.
2. Commissioner Chan inquired about the "administrative retreat" tentatively planned for March 24. Since Commissioner Payne was not present to report on final plans, it was the consensus of the Board to postpone the meeting.

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VII. Director's Report

1. Executive Director Hernandez mentioned the Writ filed by West Bay Legal Coop against the City Attorney for failing to enforce the rent law.
2. Director Hernandez informed the Board that Mr. Rod Wong was recently hired as a new Staff Counselor. He will begin work in late March.
3. Various aspects of the proposed budget were reviewed by Mr. Hernandez, including monies for the computer system and proposed eviction unit.
4. Director Hernandez reported on the bilingual rent workshop held at Horace Mann School, March 7. Arranged with the assistance of Commissioner Alviar, and conducted with the help of Commissioner Chinchilla and various staff members, the meeting attracted about 80 participants.

VIII. New Business

1. Commissioner Chinchilla mentioned a proposal by Commissioner Payne to occasionally hold the Board meetings in different locations in the city. It was felt that this might help inform community members of the work of the Rent Board and make the Commissioners more accessible to the public.

IX. Appeal Considerations

A. 777 Arguello

Landlord appealed Hearing Officer's decision denying a 49% rent increase for a tenant-manager, based on a prior oral agreement between the parties. While in the exercise of his managerial duties, tenant was shot by another tenant. The alleged oral offer from landlord was for a rental amount "set for life," to compensate tenant for the "complete physical and psychological disability" resulting from the near-fatal wound. Although evidence of the oral agreement was not contested by landlord, on appeal he contended that the issue was beyond the jurisdiction of the Rent Board.

MSC: To accept the appeal for a de novo hearing
at the Board level. (Chinchilla/Alviar: 3-0)

B. 189 College #1 & #2

Two tenants appealed Hearing Officer's determination that allowed them decrease in services awards for several problems in their apartments. Tenants felt Hearing Officer did not consider a number of conditions that they had proved.

MSC: To uphold the Hearing Officer and deny both
appeals. (Chinchilla/Alviar: 3-0)

C. 2144 Green

Landlord appealed Hearing Officer's holding that landlord could not recover the costs of carpet installation since this was seen as a "replacement item." Hearing Officer had correctly interpreted the language of revised Rule 7.12(c), which was later rewritten to avoid confusion.

MSC: To remand the case to the same Hearing Officer, to revise the decision to reflect the carpet as a capital improvement.
(Chinchilla/Alviar: 3-0)

D. 368 Prentiss

Landlord appealed Hearing Officer's determination that alleged unapproved sub-tenants were, in fact, approved tenants. Hearing Officer set the rent at \$250.00, the original amount for the room rented by the tenants. Landlord wanted the \$650.00 for the entire house since the original tenant had allegedly been evicted at the request of the sub-tenants, who remained. An unlawful detainer was filed for failure to pay correct rent. Hearing Officer found the eviction suit without merit but that the eviction had not been "wrongful." Tenants appealed the eviction portion of the decision.

MSC: To deny the tenants' appeal; to accept the landlord's appeal at the Board level.
(Chinchilla/Alviar: 3-0)

X. Appeal Hearing

40 Cervantes Blvd., #3, 5, &6

A hearing was scheduled for 6:00 p.m. and began at 6:06 p.m. Attending were landlord-appellant's (Anna DiMarco) agent, her daughter Mary DiMarco; and tenant-respondents Patricia Cabeza-Olias, L. Ruth Wilbur, and George B. Miller.

Landlord appealed Hearing Officer's decision which awarded a decrease in services due to installation of individual gas furnances as replacement for the old boiler, and for loss of a coin-operated laundry system. Landlord maintained that the P.G.&E. bills used for the decrease included costs of services still provided; and that the laundry system had been installed by a previous landlord without permits in an illegal rooftop structure.

Tenants testified that they had requested a decrease in service adjustment for the heat of \$22.50, but the landlord refused. Hearing Officer granted \$32.28 for this loss. On appeal, landlord stated the figure should be \$21.91. Tenants had figured the decrease for

the laundry system at the rate in effect at the time the system was removed, not current rates.

MSC:

That a substantial decrease in services was proved. That the award for the heat system shall be set at \$25.00 per month per tenant; that the award for the laundry system shall be \$15.00 per month per tenant. The heat award will be effective as of the date of the chargeover; the laundry, as of the date of the filing of the petition.
(Chinchilla/Alviar: 4-0)

XI. Calendar Items

March 20, 1984 - NO MEETING

March 27, 1984 - 5 appeal considerations
1 appeal hearing

XII. Remarks From the Public

1. Steven Carp made several comments on the decrease in services policy and the suggestion to hold Board meetings in various areas of town.

XIII. Executive Session

The Commissioners went into Executive Session at 6:54 p.m. to discuss pending litigation. They came back on the record at 7:02 p.m.

XIV. Adjournment

President Baird adjourned the meeting at 7:03 p.m.

3/16/84:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, March 27, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

F
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1/84
I. Call to Order

President Baird called the meeting to order at 5:32 p.m.

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II. Roll Call

APR 3 1984

Commissioners Present: Alviar; Baird; Flynn; Payne

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Commissioners Not Present: Chan; Moy

Staff Present: Henley; Hernandez; Wolf

Commissioner Chinchilla appeared on the record at 5:39 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 13, 1984.
(Alviar/Flynn: 4-0)

IV. Appeal Considerations

A. 645 Leavenworth

Landlord petitioned the Rent Board for a utility pass-through, certification of capital improvement costs, and increased operating and maintenance expenses. Tenants petitioned the Rent Board for reductions in rent based upon decreased services and for disallowance of annual increases for failure to perform requested repairs and maintenance. Landlord appealed Hearing Officer's decision granting reductions in rent and denial of all or a portion of the annual increase, and also requested a technical correction regarding one unit's rent.

MSC: To accept this case de novo at the Board level, limited to the issues raised in landlord's appeal. (Flynn/Alviar: 3-1)

B. 1352 Dolores

Tenant's original lease stipulated that landlord was to pay for garbage costs, which were transferred to tenant in April of 1979. Landlord maintained that the garbage cost was transferred to tenant in lieu of a rent increase. Tenant maintained that there was no rent increase due to habitability problems, and appealed Hearing Officer's denial of his petition.

MSC: To deny this appeal and uphold the Hearing Officer's decision.
(Payne/Flynn: 4-0)

C. 363 South Van Ness #A

Landlord petitioned the Rent Board for increased operating and maintenance expenses and capital improvements, which were awarded by the Hearing Officer. Tenant appealed Hearing Officer's decision due to habitability problems in his unit, but had failed to file a petition asking for a denial of the rent increase based on a failure to make requested repairs.

MSC: To uphold the Hearing Officer's decision
and deny this appeal. (Payne/Flynn: 5-0)

D. 957 Mission

MSC: To excuse Commissioner Flynn from consideration of this appeal. (Payne/Alviar: 5-0)

Tenant filed a petition for a rent reduction due to decreased services based on alleged: decrease in hot water; fire safety; pest control; elevator service; security; lack of heat; and plumbing problems. Hearing Officer found that tenant had failed to meet his burden of proof. Tenant appealed Hearing Officer's decision, alleging that Hearing Officer was biased, mis-stated testimony, and that he could not receive a fair hearing due to the fact that Commissioner Flynn is the owner of his building.

MSC: To deny this appeal and uphold the Hearing Officer's decision. (Payne/Alviar: 3-1)

E. 1301 Leavenworth #44

Tenant had filed a decrease in services petition due to a lack of hot water in his unit and received a retroactive rent reduction. Landlord had appealed this decision and the case had been remanded to a new Hearing Officer. Landlord failed to appear at this hearing and tenant received a slightly reduced award from the second Hearing Officer. Landlord appealed this decision, stating that he had not received notice of the remand hearing.

MSC: To remand the case to a new Hearing Officer
for a de novo hearing.
(Chinchilla/Payne: 4-1)

V. Eviction Hearing

A hearing was scheduled for 6:00 p.m. and began at 6:10 p.m. In attendance were landlord D. Sandy Dahle, his representative Jerry Levitin, and tenant representative Brent Kato.

Tenant had been given a 30-day notice to vacate citing Sections 41.6(b) (3) (d) and 41.14(b) (1) & (3) of the Residential Hotel Conversion Ordinance as justification for the eviction. The Hearing Officer found that the eviction notice was null and void as it failed to state

a "just cause" reason as required by Section 37.9(a) & (b) of the Rent Ordinance. The issue raised in this case was whether the Hotel Ordinance supersedes the Rent Ordinance for purposes of eviction.

MSC: In accordance with the Rent Ordinance, it is found that a technically wrongful eviction exists in this case. (Chinchilla/Flynn: 5-0)

After going into Executive Session (See XII) the Commissioners made the following motion:

MSC: To take no further action on this case.
(Baird/Chinchilla: 5-0)

VI. Communications

- A. The Board received a copy of a letter from Attorney Joseph Phillips inquiring as to how to evict a tenant. The Board President instructed staff to draft a response.
- B. The Board received copies of letters from the Mayor appointing Ms. Polly Marshall as an alternate Tenant member and Mrs. Alma Jackson as an alternate Landlord member. The Board was informed that the swearing-in of the new members would take place either on Thursday, March 29, 1984, or in late April.
- C. The Board received a copy of a letter from William Mayo, Attorney for tenants at 368 Prentiss Street, requesting that the tenants be allowed to withdraw their petition regarding a rent increase and their Report of Alleged Wrongful Eviction. The Board reiterated that the de novo hearing before the Board on the landlord's appeal will go forward as scheduled on April 3, 1984.
- D. The Board received a copy of a letter to Director Hernandez from the San Francisco Fair Competitions Manager requesting his presence at a press event on April 5, 1984 to initiate the Landlord/Tenant Tug-of-War through a formal challenge.
- E. The Board was given a copy of the updated Roster of Rent Board Commissioners and Staff.

VII. Director's Report

- A. Director Hernandez informed the Board that Laura Swartz has resigned her position at the Rent Board, and will be replaced as Capital Improvements Coordinator by Dwayne Kunath, currently a Hearing Officer.
- B. Director Hernandez reported on the management audit currently being conducted by the Office of Harvey Rose, and stated that suggestions regarding the capital improvements certification process were especially being solicited.

- C. Director Hernandez reported that EDP has assigned a staff person to design a computer program for the Rent Board which is expected to be ready by the Spring of 1985.
- D. Director Hernandez announced that he will be meeting with the Mayor regarding the proposed budget on April 11, 1984 at 9:30 a.m.

VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

2433 Franklin

MSC: To accept staff recommendation and set the case for a hearing at the Board level.
(Payne/Chinchilla: 5-0)

- B. Eviction Coordinator Henley presented the Board with supplemental information regarding the case at 917 Folsom.
- C. Eviction Coordinator Henley presented the Board with a memorandum outlining proposed procedures for conducting eviction hearings at the Board level. President Baird and Director Hernandez will meet to develop guidelines for Hearing Officers conducting eviction hearings.

IX. Old Business

- A. The Appeal Decision regarding 91 Central was approved and signed by the Board President.
- B. The Board discussed Commissioner Chinchilla's Memorandum regarding written agreements to pay additional rent for newborn children.

MSC: To establish a policy wherein written agreements requiring rent increases for newborns shall be unenforceable.
(Chinchilla/Payne: 4-1)

Staff will draft a Policy Directive for Hearing Officers to this effect.

XI. Calendar Items

April 3, 1984: 6 appeal considerations
1 appeal hearing: 368 Prentiss

April 10, 1984: 2 appeal considerations
1 appeal hearing: 777 Arguello

XI. Remarks from the Public

- A. A landlord remarked on his feelings regarding infants and wear-and-tear on apartments.

- B. Don Hesse of the Human Rights Commission made some remarks regarding rent increases for newborns and children and commended the Board on their newly-adopted policy.

XII. Executive Session

The Board went into Executive Session at 7:28 p.m. to discuss possible litigation. They returned on the record at 7:30 p.m.

XIII. Adjournment

President Baird adjourned the meeting at 7:36 p.m.

3/29/84:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 3, 1984 at 5:30 p.m. at the State Building 350 McAllister St. #1195

DOCUMENTS DEPT.

I. Call to Order

APR 6 1984

President Baird called the meeting to order at 5:31 p.m.

SAN FRANCISCO
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II. Roll Call

Commissioners Present: Alviar, Baird, Payne, Chan, Jackson, Marshall, Moy
Commissioners Not Present: Chinchilla
Staff Present: Hernandez, Wicks

Commissioner Flynn appeared on the record at 5:33 p.m.

III. Approval of the Minutes of March 27, 1984

MSC: To approve the Minutes of March 27, 1984
(Alviar/Moy: 5-0)

IV. Appeal Consideration

A. 1151 Post

Tenant appealed Hearing Officer's decision on remand. Hearing Officer held that the majority of tenants' repair and maintenance issues had been adjudicated at the earlier hearings and therefore were res judicata. Other problems raised by tenant were held to not be significant enough to constitute a decrease in services or failure to repair.

MSC: To uphold the Hearing Officer and deny the appeal. (Flynn/Alviar: 5-0)

B. 3625 Fillmore

Landlord appealed Hearing Officer's decision disallowing an improper P.G.&E pass-through, premature rent increases and charges for garage and storage spaces previously furnished as part of housing services provided by the prior landlord. Further, Hearing Officer granted tenants decreases in housing services awards for diminished or eliminated gardening, janitorial, security, managerial, and heating services. Landlord maintained that he did not receive notice of the hearing, that services had been increased, and that the garages and lockers were separate rentals.

MSC: To uphold the Hearing Officer and deny the appeal without prejudice to the landlord, who may petition for an increase at such time as he believes he has restored the decreased housing services. (Chan/Alviar: 4-1, Payne dissenting)

C. 1310 Turk

Landlord appealed the determination of the Hearing Officer that garages rented by the petitioning tenants were part of housing services provided for seven years and four years, respectively. Hearing Officer therefore disallowed a \$12.50 increase for continued use of the garages. Landlord maintains the garages are rented separately and therefore can be increased separately.

MSC: To accept the appeal and hear the case de novo at the Board level. (Flynn/Alviar: 5-0)

D. 34 Castle

Landlord appealed the ruling of Hearing Officer that the Board had jurisdiction over the case and that the landlord did not carry his burden of proving owner-occupancy for purposes of exemption from the Ordinance. Landlord did not testify on this issue, on the advice of his attorney, since the matter is being adjudicated in court.

MFS: To accept the appeal and vacate the Hearing Officer's decision. (Flynn/Alviar: 5-0)

E. 675 Cole

Landlord appealed Hearing Officer's determination that tenant had carried his burden of proof on the issues of decrease in services and failure to maintain and repair. Some of the conditions had been stipulated to in a hearing the previous year. Landlord insisted that several of the conditions were caused by tenant's negligence and others had been remedied at the time of the hearing.

MSC: To remand to a new Hearing Officer for a de novo hearing. (Payne/Flynn: 4-1, Baird dissenting)

F. 3161 - 16th Street, #515

Landlord appealed Hearing Officer's decision allowing tenant an award for decreases in service because of insufficient heat; and rendering a rent increase null and void because of an inoperative elevator and a pest problem constituting a failure to maintain and repair. Landlord stated that he had not been granted any of the continuances he requested and that the hearing had been unfair.

MSC: To accept the appeal on the record at the Board level, each party being granted five minutes to speak. (Flynn/Chan: 5-0)

V. Communications

1. Tenants from 825 Post wrote a letter to the Board requesting the use of a sound system during the Commissioner's meeting so that the elderly persons in the audience can hear the proceedings.
2. Representative Steven Carp wrote in response to the tenants' appeal at 1151 Post.
3. Responses from the tenants' attorney, the landlord, and the Hearing Officer concerning 368 Prentiss were received.
4. Conflict of interest forms were distributed to the two new Commissioners.

VI. Appeal Hearing

368 Prentiss

A hearing was scheduled for 6:00 p.m. and began at 6:12 p.m. Appearing were the landlord Harry Moss and his representative Martin Lerner, and tenant Margaret Surrell and her representative William Mayo.

Landlord appealed Hearing Officer's determination that alleged unapproved sub-tenants were, in fact, approved tenants. Hearing Officer set the rent at \$250.00, the original amount for the room rented by the tenants. Landlord wanted the \$650.00 for the entire house since the original tenant had allegedly been evicted at the request of the sub-tenants, who remained. An unlawful detainer was filed for failure to pay correct rent. Hearing Officer found the eviction suit without merit, but that the eviction had not been "wrongfull." Tenants appealed the eviction portion of the decision.

The parties informed the Commissioners that all issues presented to the Rent Board are currently pending before the Municipal Court.

Based on this information, the Commissioners voted as follows:

MSC: To vacate the Hearing Officer's decision and grant the tenants' request to withdraw their petition. (Flynn/Alviar: 5-0)

VII. Director's Report

1. Executive Director Hernandez introduced the two new alternate Commissioners, Ms. Polly Marshall (tenant representative) and Ms. Alma Johnson (landlord representative).
2. Mr. Hernandez commented on the outreach conducted by Staff members on radio shows and at workshops. Commissioner Flynn commended Mr. Hernandez and Delene Wolf for an excellent presentation at TRI. Commissioner Payne expressed his pleasure at the increased public contact by the Staff.
3. The Director noted that Channel 4 was continuing its coverage of Gunther Kaussen buildings. The office experienced an increase in calls from tenants in response to the televised reports.

4. The tug-o-war between tenant and landlord organizations was again mentioned.
5. The Human Rights Commission has requested that the Rent Board share a booth with them at the coming apartment and condominium show.

VIII. Old Business

1. The Commissioners approved the decisions from 91 Central and 1668 Market. Staff member Wicks gave the Commissioners an update on 91 Central.

IX. Calendar Items

1. April 10 - 2 appeal considerations
4 eviction considerations
1 appeal hearing
2. April 17 - nothing yet scheduled

President Baird suggested that the Board use the upcoming lighter summer schedule to alternate regularly scheduled meetings with meetings to conduct Board administrative business.

X. Adjournment

President Baird adjourned the meeting at 6:31 p.m.

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, April 10, 1984 at 5:30 at the State Building
350 McAllister St. #1195

DOCUMENTS DEPT.

APR 16 1984

SAN FRANCISCO
PUBLIC LIBRARYI. Call to Order

President Baird called the meeting to order at 5:30 p.m.

II. Roll CallCommissioners Present: Alviar, Baird, Chinchilla, Payne, Jackson,
Marshall, Moy

Commissioners not Present: Flynn

Staff Present: Henley, Hernandez, Wicks, Hearing Officer
AstleCommissioner Chan appeared on the record at 5:39 p.m. Commissioner
Payne went off the record at 6:50 p.m.III. Approval of the MinutesMSC: To approve the Minutes of April 3, 1984, with
the following correction: Page 3, VII Director's
Report: "Ms. Alma Jackson." (Alviar/Moy: 5-0).IV. Consideration of Appeals

A. 144-150 Carl St.

Landlord and tenants appealed Hearing Officer's decision concerning a RAP case. Landlord questioned Hearing Officer's determination that only the RAP loan amount- and not the purchase mortgage loan - would be passed on to the tenants; that certain maintenance costs had been disallowed; and that the Hearing Officer allowed tenants to pay disputed rent over a 12 month period.

Tenants objected to Hearing Officer's determination that the method used for calculating the yearly cost of living adjustment was proper; that additional insurance and property tax costs were allowed; that decrease in service and failure to maintain arguments had been disallowed; and that rent increases were made retroactive to August 1982.

MSC: To accept both appeals de novo at the Board
level. (Chinchilla/Alviar: 5-0).

B. 3032 Baker St.

Landlord appealed Hearing Officer's holding awarding tenants rent rebates for decreases in service. Tenants carried their burden of

proving severe rot and mildew from leaks, resulting in loss of use of the shower and structural damage to several rooms. Tenants had notified landlord several times of the problem, but no work was done. Landlord maintained that she had contacted the Rent Board several times after receiving notification of tenant's petitions, and that staff told her she did not have to come to the hearing and so did not appear.

MSC: To deny the appeal. (Chinchilla/Alviar: 5-0).

V. Communications

- A. The USF Consel's Office extended to the Commissioners an invitation to attend an open house April 11, 1984.
- B. The San Francisco Fair Competitions Manager, Merle Goldstone, wrote Director Hernandez about the tug-of-war "preview" held April 5 and covered on Channels 4 and 5.
- C. Deputy City Attorney Kathryn Pennypacker sent the Board a memo concerning the Hotel Subsidy Loan Agreement.
- D. Executive Director Hernandez submitted the March 1984 counseling statistics.
- E. The Commissioners approved the Appeal Decision on 363 Prentiss St.

VI. Director's Report

- A. Director Hernandez reported that staff member Delene Wolf had participated in a KITS radio show with a representative from the Oakland Rent Board.
- B. Director Hernandez was interviewed by radio station KPFA for a program to be aired April 26, 1984.
- C. The Rent Board will participate in the Noe Valley Neighborhood Fair May 19, 1984.
- D. Director Hernandez stated that he, President Baird, and Senior Hearing Officer Francis had met with the Mayor, April 10, 1984 to go over the budget proposal.

VII. Consideration of Allegations of Wrongful Evictions

- A. Report from Staff
 - 1. 458 Colon Ave.
 - 2. 1080 Bush St. #207
 - 3. 760 North Point #101
 - 4. 1589- 15th Ave.

- MSC:¹ To set the case concerning 760 North Point #101 for a Board hearing. (Payne/Chinchilla: 5-0).
- MSC:² To accept staff recommendations on the other three cases. (Chinchilla/Alviar: 5-0).

VIII. Appeal Hearing

1. 777 Arguello St.

A hearing on this matter was scheduled for 6:00 p.m.; discussion began at 6:15 p.m., and the case began on the record at 6:20 p.m. Attending were landlord's representative, Gilbert Y. Jay, Esq.; and landlord's son, witness Vincent Hui. Also appearing were tenants Rudyard and Clarissa Hansen and their attorney, James Thompson.

Landlord had appealed Hearing Officer's decision denying a 49 percent rent increase for a former tenant-manager, based on a prior oral agreement between the parties. While in the exercise of his managerial duties, tenant-manager was shot by another tenant. The alleged oral offer from the owner's son was for a rental amount set as long as tenants remained in residence in the building, to compensate tenant for the "complete physical and psychological disability" resulting from the near-fatal wound.

Although evidence of oral agreement was not contested at the original hearing, on appeal landlord's son maintained that he had no authority to grant a fixed rent for this tenant, as only his father - an absentee owner - has such authority. Tenant had not protested two earlier increases given after the oral contract was allegedly made.

The Commissioners went off the record at 7:10 p.m. to allow the parties to attempt to settle. The Commissioners came back on the record at 7:36 p.m.. The parties indicated that they had reached a tentative agreement. It was the consensus of the Commissioners to allow the parties two weeks to arrive at a firm settlement. The hearing was closed at 7:38 p.m.

IX. Calendar Events

April 17

No appeals received

April 24

3 appeal considerations
1 appeal hearing
1 eviction hearing

May 1

4 appeal considerations
2 appeal hearings

MSC: To not hold a Board meeting April 17, 1984.
(Chinchilla/Moy: 5-0).

X. Old Business

- A. Staff member Alicia Wicks submitted a proposed draft for the policy directive covering rent increases for newborn children when there is a written agreement allowing increases for additional occupants.

MSC: To accept the policy directive as drafted.
(Chinchilla/Alviar: 5-0).

XI. Adjournment

President Baird adjourned the meeting at 7:42 p.m.

4/12/84:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, May 1, 1984 at 5:30 p.m. at the State Building
450 McAllister St. #1195

DOCUMENTS DEPT.

MAY 11 1984

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I. Call to Order

President Baird called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Flynn, Payne, Astle,
Jackson

Commissioners not Present: Chinchilla, Chan

Staff Present: Hernandez, Wicks

Commissioner Marshall appeared on the record at 5:36 p.m. Commissioner
Moy appeared on the record at 5:39 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 24, 1984 as
presented. (Flynn/Astle: 4-0).

IV. Consideration of Appeals

A. 2120 Pacific Ave.

Landlord appealed Hearing Officer's decision concerning a petition for increases based on capital improvements, operating and maintenance, banking, utility pass-through, and comparable rents on some units. Hearing Officer allocated some "repair" costs to capital improvements and disallowed the following operating and maintenance expenses: costs resulting from the landlord's policy of short-term high rent tenancies (including some maintenance and advertising costs); expenses related to the rental of garages to non-residential tenants (including advertising and management); and legal expenses. Hearing Officer granted increases for utility pass-through and banking. Hearing Officer determined that the landlord could not recover on the comparables argument since the other granted increases brought the subject units close to the rent levels of the submitted comparables. Landlord appealed the disallowed expenses.

MSW: To remand the case to a new Hearing Officer.
(Payne/Flynn)

MSC: To accept the case on the record at the Board
level; each side will be given 5 minutes to
speak. (Payne/Flynn: 4-0).

B. 1730 Vallejo St.

Landlord appealed Hearing Officer's determination that regular six-month increases were null and void and that no separate charge could be levied for garage use, since the garage was noted as "free" on the 1982 rent agreement. Landlady maintained that she was merely continuing the increase pattern of the previous owner and that this mutually acceptable method was for the tenant's benefit; and that other tenants in the building paid a parking fee, and that said fee was not covered by the rent Ordinance.

MSC: To uphold the Hearing Officer and deny the appeal. (Payne/Flynn: 4-0).

C. 1111 Pine St.

Tenant appealed Hearing Officer's decision that tenant had not carried his burden of proving significant decreases in service and failures to repair. Tenant had claimed problems with his kitchen linoleum, the elevator door, laundry facilities, his refrigerator, and security. At the hearing it was shown that there are personal conflicts between this tenant and others in the building. Hearing Officer found the problems to be minor or not raised in a timely manner.

MSC¹: To allow Commissioner Flynn to be excused from this consideration. (Payne/Alviar: 4-0).

MSC²: To deny the appeal and uphold the Hearing Officer's decision. (Alviar/Payne: 4-0).

D. 241 Central Ave. #2

Landlord appealed decision of the Hearing Officer which found a \$50 charge for shared utilities metering - and increase notice concerning same - to be null and void. Hearing Officer held that shared metering was contrary to state law; that the increase notice was for more than 7 percent and gave less than 30 days notice; and that the base rent would be set at \$600, not \$650. Landlord insisted that the base rent was \$650, that the \$50 for utilities was not a separate charge but merely an explanation of the breakdown of the basic rental amount.

MSC: To remand to the same Hearing Officer for a de novo hearing to consider the following:

1. The base year of 1980 for the utility pass-through; .
2. validity of the increase notice under state law, re: 30-day period

3. reconsider if utilities are part of the base rent.
(Flynn/Alviar: 4-0).

V. Communications

- A. The Commissioners were given a copy of the letter from Mayor Feinstein to newly-appointed Commissioner Ruth Astle, congratulating her on her appointment to the Board.
- B. Attorney Barbara Herzig wrote the Board to request that the determination on 645 Leavenworth/825 Post case be held early on May 1 agenda. She also wrote to submit further evidence on the case, as was allowed by the Commissioners at the April 24 meeting.
- C. Tenant-petitioner at 241 Central submitted a statement concerning his case on appeal.
- D. Staff member Wicks furnished the Commissioners with signed copies of the April 10, 1984, policy directive on raising rent for new-born children.
- E. Executive Director Hernandez gave the Board a copy of a 30-day notice for 44 McAllister St. This notice is to be considered in light of the consideration at 34 Turk set for May 8, 1984.
- F. A copy of staff member Henley's letter to the landlord at 1496- 14th Ave. was distributed to the Board for their approval.
- G. The Commissioners approved a letter to the landlords at 2433 Franklin St. from Appeals Attorney Wicks, concerning the Board's interim determination on the case heard April 24, 1984.
- H. The landlord-appellant from 3161- 16th St. orally requested a withdrawal of his appeal, scheduled for a Board hearing May 1, 1984. Ms. Wicks informed the Board that she had requested the withdrawal in writing and had told the landlord that jurisdiction would be retained by the Board until such written confirmation was received.
- I. Commissioners Astle and Baird agreed to meet to discuss establishing the Board's procedures for conducting eviction hearings.

VI. Old Business

- A. 645 Leavenworth/825 Post St. (continued from April 24, 1984).

After discussion, the Board voted as follows:

MSF: To continue the case for one week.
(Alviar/Baird: 1-3, Baird, Payne, Flynn
dissenting).

MSC¹: To excuse Commissioner Alviar from the consideration because she was not present during oral testimony. (Flynn/Payne: 4-0).

MSC²: To excuse Commissioner Astle from the voting because she had not been sworn in as a Commissioner last week, although she had attended the hearing. (Payne/Flynn: 4-0).

After lengthy discussion, the following motion was proposed:

MFS: To vacate the Hearing Officer's decision and find a monthly decrease of \$15 per tenant. (Payne/).

It was the consensus of the Board to defer final discussion of this case until next week, with the request that all eligible Board members be present for the vote. It will be the first item on the agenda.

VII. Appeal Hearing

A. 1310 Turk St. #404 and 408

A hearing on this matter was scheduled for 6:00 p.m. and was called at 7:18 p.m. Attending were landlord's attorney B. Libanti and landlord's representative William T. Gorman. Upon questioning by the Board, landlord's representatives stated that tenant Jones in #404 had voluntarily vacated April 28, 1984; and that although back rent is due, no suits are pending or contemplated. Tenant Williams in #408 neither appeared nor sent a representative. The case began on the record at 7:24 p.m.

Landlord had appealed the Hearing Officer's decision that garages rented separately from the apartment were nevertheless part of provided housing services and subject to the limitations of the Rent Ordinance.

Garage spaces had not been available when tenants requested them when they took up residence. When garages became available, these tenants rented them for \$10, in 1977 and 1980 respectively. In March 1983 the garages were increased to \$35, with a further increase to \$47.50 effective January 1, 1984. Tenants' last increase on their residential units was in May of 1983.

Hearing Officer found that the garage use was part of the housing services provided by the landlord and under the guideline limitations of the rent law, even though the spaces were rented separately. Hearing officer therefore determined that the \$12.50 increase was null and void, as it exceeded the allowable annual guideline amount.

Landlord maintains that the garages are rented separately, not in connection with occupancy of the apartments; that separate rental agreements are entered into for the garages; and that failure to

pay rent on the garage space does not jeopardize the tenancy in the apartment; that garage fees for all users are increased the same amount at the same time, regardless of anniversary dates or increase amounts on the involved party's apartment .

The hearing was closed at 7:42 p.m. After considering the oral and written testimony presented, the Commissioners passed the following motion:

- MSC:
1. That the garage use is a housing service provided by the landlord and is subject to the increase limitations of the Rent Ordinance and Rules;
 2. That the landlord can execute separate agreements for garage and apartment use at separate times, resulting in different anniversary dates for each usage;
 3. That the current rent for the involved garage space is \$35.00, the \$12.50 increase being null and void;
 4. That the anniversary date for the garage at issue is March 1, 1983.(Flynn/Alviar: 4-0).

VIII. Calander Items

May 8, 1984

3 appeal considerations
1 eviction hearing

May 15, 1984

3 appeal considerations
1 appeal hearing

IX. Adjournment

President Baird adjourned the meeting at 7:51 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, May 22, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

DOCUMENTS DEPT.

MAY 25 1984

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I. Call to Order

President Baird called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Alviar; Baird; Payne; Astle; Jackson;
Marshall

Commissioners not Present: Chinchilla; Chan; Moy

Staff Present: Francis; Hernandez; Wicks

Commissioner Flynn appeared on the record at 5:36 p.m.

III. Executive Session

The Board went into Executive Session with Deputy City Attorney
Pennypacker at 5:35 p.m. to discuss pending litigation. The Board
returned on the record at 6:11 p.m.

IV. Approval of the Minutes

MSC: To approve the Minutes of May 15, 1984 as
presented. (Alviar/Payne: 4-0).

V. Appeal Considerations

A. 2503 Union St.

Landlord appealed Hearing Officer's decision denying landlord a
rent increase on the basis of comparables and hardship related to
a condominium conversion. Landlord maintained that the controlling
law was the Subdivision Code Section 1390. Hearing Officer found
that said code specifically stated that Section 1390 controlled
rent increases only in the absence of other laws governing
increases; and that the rent Ordinance therefore was the applicable
law. Hearing Officer denied comparables since landlord introduced
evidence only of newly rented units. The hardship argument was
also denied since landlord had given several rent increases
improper under the Rent Ordinance, including one for 19 percent;
these increases were also given during the moratorium period of
the condominium ordinance. Hearing Officer did not void the
increases, since the parties had negotiated for them, but noted
that these raises were based on improvements made in the building.

It was the consensus of the Board to continue the case for one week.

B. 864 Ellis St.

Landlord appealed Hearing Officer's reduction in service award of 50 percent of a tenant's rent for severe leakage and ceiling damage. Tenant maintained that the ceiling had to be covered with plastic and held up by scaffolding, making part of the apartment untenable.

Tenant further testified that management had actual and constructive notice of leaks and damage in this unit and the building as a whole. Landlord appealed on the basis that no notice had been given, that photos submitted were from another unit, that the award was excessive, and that a contractor would make repairs at a considerable expense.

MSW: To remand the case to a new Hearing Officer.
(Payne/Flynn).

MSC: To accept the case de novo at the Board level.
(Payne/Flynn: 4-0).

C. 140 Harold

Landlord appealed the determination of the Hearing Officer in which certain rent increases were held to be null and void because the Ordinance required the landlord to petition the Rent Board; but informing landlord that he could "bank" some increases if properly noticed. An increase requested on the basis of comparables was denied since the rent on the subject unit was not significantly below comparable units in the area. Hearing Officer granted capital improvement costs after eliminating repair and maintenance expenses erroneously included. Landlord maintained that he had not been granted proper allowances for interest on the capital improvements and that his allowable rent increases had not been awarded for the proper time period.

MSC: To remand the case to the same Hearing Officer to make the technical correction concerning the 10 percent interest; and to consider if the number of months involved in the rebate of incorrect rent payments is correct.
(Flynn/Alviar: 4-0).

VI. Communications

A. Don Hessee, Fair Housing Coordinator of the Human Rights Commission wrote to thank the Rent Board staff members who participated in the Apartment and Condo show in late April.

B. The Russian Hill Forum invited staff member Delene Wolf to be a guest speaker at their meeting scheduled for June 28, 1984.

VII. Director's Report

A. Executive Director Hernandez reported on staff participation last weekend at the Noe Valley Fair.

- B. Mr. Hernandez noted that the Mayor will highlight the proposed Rent Board eviction unit in her budget message May 23, 1984.
- C. The San Francisco Fair scheduled for June 16, 1984 will include the landlord/tenant tug-of-war.
- D. On June 15, 1984, Director Hernandez will speak to the Gray Panthers.
- E. An update on the allocation for the Rent Board computer was given by Mr. Hernandez.

VIII. Old Business

The Board discussed at length possible alterations in both staff and Board procedures for dealing with alleged wrongful evictions. Commissioner Astle volunteered to coordinate efforts to come up with revised procedures.

IX. New Business

- A. Commissioner Marshall led a brief discussion on the Costa bill. She noted that the Papan bill had been withdrawn. The Commissioners will discuss the Costa bill under Old Business at the May 29, 1984 meeting.

X. Calendar Items

May 29, 1984

- 6 appeal considerations
- 1 appeal hearing
- 1 eviction hearing

June 5, 1984

- 3 appeal considerations
- 2 appeal hearings

June 12, 1984

- 3 appeals
- 1 appeal hearing

XI. Remarks from the Public

- A. Michael Harney asked that the Commissioners avoid holding Executive Sessions since the public is excluded from hearing such discussions. He further suggested that the Commissioners consider hiring their own litigator to deal with eviction cases involving litigation.

XII. Adjournment

President Baird adjourned the meeting at 7:19 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, May 29, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

DOCUMENTS DEPT.

JUN 4 1984

I. Call to Order

President Baird called the meeting to order at 5:32 p.m. SAN FRANCISCO
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II. Roll Call

Commissioners Present: Baird, Chinchilla, Flynn, Astle,
Chan, Jackson, Marshall, Moy
Commissioners Not Present: Alviar, Payne
Staff Present: Henley, Hernandez, Wicks

III. Approval of the Minutes

To approve the Minutes of May 22, 1984, with the following two
corrections:

Agenda: IV. Consideration of Appeals: F. 287 Sanchez;
VII A. Eviction Hearing: 6:30 P.M.

(Flynn/Astle: 5-0)

IV. Consideration of Appeals

A. 155 Turk #308 & #609

Tenants appealed Hearing Officer's determination that no substantial decrease in services had been proved when landlord converted the heating system from central steam heat to individual electric heaters. Landlord had given tenants a \$14.00 monthly reduction in rent to compensate them for their now being responsible for their own heating costs. Tenants maintained that landlord had not supplied any evidence of utility bills to justify only a \$14.00 decrease; that tenants were low income individuals who could not pay for the new expensive heating system; and that tenants had proved a larger reduction should be granted.

MSC: To excuse Commissioner Flynn from this consideration.
(Chinchilla/Astle: 5-0)

MSC: To remand the case to a new Hearing Officer.
(Astle/Chinchilla: 5-0)

B. 1995 Chestnut #208

Landlord appealed Hearing Officer's ruling that tenant's garage costs were limited to the guideline increase amount, since the garage was a housing service associated with the tenancy. Tenant had testified that he always had a key to the garages and garage use, even before he purchased his own car. Landlord insisted that tenant was never given a garage space and was asked to pay for such use

when landlord discovered tenant was housing his car there.

MSW: To uphold the Hearing Officer and deny the appeal.
(Astle/Jackson)
MSC: To remand the case to a new Hearing Officer.
(Flynn/Chinchilla: 5-0)

C. 1441 Jones #204

Tenant appealed the decision of the Hearing Officer, in which he held that the apartment was decontrolled when the "original" tenant vacated, thus allowing the landlord to institute a new rent amount without limitations on the figure set. Tenant had moved in as a roommate in 1981. When the "original" tenant vacated in 1983, landlord told the subject tenant that his tenancy was also terminated in order to avoid continuing the "revolving door" effect of past serial tenancies. Tenant was told he could remain and take on a roommate if he were willing to pay a new, higher rental amount. Tenant and landlord signed a negotiated agreement to this effect.

MSC: To accept the appeal de novo at the Board level.
(Chinchilla/Astle: 3-2; Flynn and Jackson dissenting)

D. 287 Sanchez

The decision of the Hearing Officer was appealed by the landlord when the Hearing Officer ordered a repayment of an unjustified P.G.&E. passthrough and disallowed a separate increase for garage use. Landlord arrived at a utility increase by comparing one year's P.G.&E. bills with five months of bills from the previous year; Hearing Officer found that the proper calculations resulted in a decrease in utility costs. Hearing Officer further determined that tenants had garages included as part of their rent for several years, and that no separate increase could be levied for this housing service. Landlord argued that P.G.&E. was not "rent" and therefore should be outside of increase limitations and that the garages had been rented separately under the previous landlord.

It was the consensus of the Board to excuse Commissioner Astle from this consideration.

It was the consensus of the Commissioners to defer consideration of this case for one week.

E. 2503 Union (Continued from May 22, 1984)

(See Case Summary in May 22, 1984 Minutes).

MSC: To excuse Commissioner Astle from consideration of this Case. (Flynn/Chinchilla: 5-0)
MSW: To deny this appeal. (Chinchilla/Baird)

It was the consensus of the Board to defer consideration of this Case for one more week.

F. 91 Alpine/834 Duboce

Tenants appealed Hearing Officer's findings that a solar heating system installed by the landlord was a valid capital improvement, the cost of which could be appropriately passed on to the tenants. Tenants insisted that the previous hot water system was more than adequate and that landlord had installed the system merely to increase the value of the building, and that the building is current being shown for sale. They further objected to the fact that the monthly savings in the landlord's utilities were not passed on to the tenants; nor was consideration given to tax credits received by landlord.

MSC: To uphold the Hearing Officer and deny the appeal.
(Chinchilla/Flynn: 4-1; Baird dissenting)

V. Communications

- A. The tenant from 864 Ellis #52 wrote to request a postponement of her appeal hearing scheduled for June 5, 1984, since she has long-standing plans to be out-of-state on that date. The postponement was granted.
- B. Further evidence for the case at 1995 Chestnut was received from the landlord.
- C. The tenant from 2503 Union objected to the submission of the appellant's appeal brief eight days after the date all documentation was due at the Rent Board office.
- D. Senior Hearing Officer Susan Francis sent to the Commissioners the Modification of Hearing Officer Decision as ordered by the Court, pursuant to a writ. President Baird signed the modified judgment. For 147 Laurel.

VI. Appeal Hearing

2120 Pacific

An appeal hearing was scheduled for 6:00 p.m. and began at 6:06 p.m. Present for landlord-appellant Pacific Avenue, a limited partnership, were: landlord Richard Gregersen, representative Deborah Hinz, and attorney D.J. Soviero. Present for the respondents were tenants Margaret Wong and Teresa Wong, along with attorney Michael Wong of the Asian Law Caucus.

Landlord appealed Hearing Officer's decision concerning a petition for increases based on capital improvements, operating and maintenance, banking, utility passthrough, and comparable rents on some units. Hearing Officer allocated some "repair" costs to capital improvements and disallowed the following operating and maintenance expenses: costs resulting from the landlord's policy of short-term high rent tenancies (including some maintenance and advertising costs); expenses related to the rental of garages to non-residential tenants (including advertising and management); and legal expenses. Hearing Officer granted

increases for utility passthrough and banking. Hearing Officer determined that the landlord could not recover on the comparables argument since the other granted increases brought the subject units close to the rent levels of the submitted comparables.

On appeal landlord maintained that comparable rent comparisons should be based on the subject tenants' base rent, exclusive of P.G.&E., capital improvements, or operating and maintenance allowances. To counter this argument, tenants insisted that there was no way to determine whether the compared rents included such additions, as they likely would if such components were involved. Landlords also argued that the Hearing Officer had been arbitrary in reducing or deleting certain operation and maintenance increases; that these costs were incurred by the landlord as normal operating expenses. Tenants primarily objected to several large one-time expenses which would stay with the tenants as part of their base rents, even though the "service" was provided for a very short period. Finally, landlord submitted further documentation to support the position that garage-related work was in the form of repairs, not capital improvements. The hearing was closed at 7:16 p.m.

- MSC:¹ To allow all maintenance costs petitioned for.
(Astle/Flynn: 5-0)
- MSC:² To allow an increase in advertising costs by the percentage increase in the Consumer Price Index over the two-year period at issue.
(Astle/Chinchilla: 3-2; Flynn and Jackson dissenting)
- MSC:³ To uphold the Hearing Officer's amortization of one-time security costs since this was an unusual, nonrecurring expense. (Chinchilla/Astle: 5-0)
- MSC:⁴ To treat the garage maintenance costs as repairs, not capital improvements.
(Baird/Chinchilla: 4-1; Astle dissenting)

The Board further directed the Rent Board Staff to calculate the sum of the increases granted and figure the total amount allowed, based on the "cap" in effect at the time landlords filed their petition.

VII. Consideration of Allegations of Wrongful Eviction

A. Eviction Hearing: 1476 Valencia #1 and #7

An eviction hearing was scheduled for 6:30 p.m. and began at 7:27 p.m. Appearing were landlords Mercedes Willis and Arthur Willis, and their attorney Charles Stuhr, as well as tenant Katherine Maltz and her representative, attorney Jeffrey Leon.

Tenants in units #1 and #7 had been before the Rent Board in July and December of 1983, petitioning against two separate attempted evictions, the first involving the tenant in #1 and the second involving both tenants. In both cases tenants charged retaliatory eviction.

At the July hearing it was testified that the tenant in #1 had informed other residents of the building of a successful tenant action before the Rent Board. Several tenants corroborated the fact that landlord had personally made statements to them about the distasteful tenant "advocacy" of the resident in #1; an eviction notice followed shortly. The Hearing Officer found that landlord did not have good cause to evict the tenant, and that landlord's true motive was retaliation.

At the December hearing, the attempted evictions were based on the intention of landlord Willis and her estranged husband to move into units #1 and #7 in order to personally manage the building. Tenants countered with evidence that landlord owned a home and two properties with a total of 30 rental units; that at least 4 units were vacant in the subject building during the time at issue; and that the eviction notices themselves made it clear that they were given in response to the landlord's receipt of a Rent Board decision favorable to the tenants. Hearing Officer found sufficient evidence of wrongful eviction and, further, possible retaliation.

After considering written and oral evidence from both sides, the Board made the following finding:

MSC: That there is sufficient evidence to establish attempted wrongful evictions.
 (Astle/Baird: 4-1; Chinchilla dissenting)

After convening Executive Session (See XI below) the Commissioners made the following motion:

MSC: To take no further action on this case.
 (Flynn/Chinchilla: 4-1; Astle dissenting)

VIII.

Director's Report

- A. Executive Director Hernandez informed the Commissioners that the Consumer Fraud Unit of the District Attorney's office would like to meet with them June 7 at 10:00 a.m. to discuss coordinating efforts in pursuing wrongful evictions.
- B. Director Hernandez excused himself from the June 5 meeting in order to work on the primary election.

IX.

Old Business

- A. Commissioner Marshall submitted for discussion the draft of a resolution against AB3808, the Costa Bill. After discussion, the Board voted as follows:

MSC: That the Rent Board Commissioners pass a resolution in opposition to the Costa Bill and distribute the resolution to the appropriate state officials.
 (Chinchilla/Astle: 3-2; Jackson and Flynn dissenting)

MSC:²

That the figures in the second paragraph of the draft will be checked for accuracy and the source of such figures stated in the text of the resolution; and that the fourth paragraph of the draft shall be deleted.
(Astle/Chinchilla: 3-2; Jackson and Flynn dissenting)

X. Remarks from the Public

A. Speaking for the San Francisco Housing and Tenants' Council,
Mr. Ted McCalla made several comments about the appeal hearing
on 2120 Pacific.

XI. Executive Session

The Commissioners went into Executive Session at 9:56 p.m. to discuss possible litigation at 1476 Valencia. They returned on the record at 10:06 p.m.

XII. Adjournment

President Baird adjourned the meeting at 10:09 p.m.

5/31/84:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 12, 1984 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

DOCUMENTS DEPT

President Baird called the meeting to order at 5:33 p.m.

JUN 19 1984

II. Roll Call

SAN FRANCISCO
PUBLIC LIBRARY

Commissioners Present: Alviar, Baird, Chinchilla, Payne

Commissioners not Present: Jackson, Moy

Staff Present: Francis, Hernandez, Wicks

Commissioner Marshall appeared on the record at 5:36 p.m.; Commissioner Chan appeared at 5:37 p.m.; Commissioner Astle came on the record at 5:43 p.m.; Commissioner Flynn appeared at 6:11 p.m. and went off the record at 6:41 p.m.

III. Meeting with Deputy City Attorney

Deputy City Attorney Kathryn Pennypacker appeared to discuss the continuing case at 34 Turk. In a discussion of whether or not to hold the discussion in Executive Session, the Commissioners voted as follows:

MSF: To go into Executive Session to discuss the case at 34 Turk. (Payne/Alviar: 2-2; Baird and Chinchilla dissenting).

The discussion was held in open session. Ms. Pennypacker further explained her view on the jurisdictional issue.

IV. Approval of the Minutes

MSC: To approve the minutes of June 5, 1984, with the following correction: Page 3, VI, Director's Report, B: "on rent control..." (Alviar/Chinchilla: 4-0).

V. Consideration of Appeals

A. 320-322 Elsie St.

Landlord appealed Hearing Officer's decision allowing tenant a decrease in service award and disallowing an annual increase for failure to repair. Tenant had submitted into evidence several reports, notices, and papers of abatement proceedings concerning habitability problems and code violations on the premises. Landlord maintained that no notice of the hearing had been received, although the case file contained a notation that landlord's representative had requested, two days before the hearing, that the decision be sent to him.

MSC: To remand the case to a new Hearing Officer.
(Chinchilla/Payne: 3-1; Baird dissenting).

This part of the agenda was temporarily suspended at 6:13 p.m. to reconvene the Board discussion concerning 34 Turk St.

VI. Old Business

A. 34 Turk St.

After a discussion of the case, the Commissioners voted as follows:

MSC¹: To allow Commissioner Alviar to be excused
from this case. (Alviar/Flynn: 5-0).

MSF: To find that the property is not exempt from
the Rent Ordinance and that the Rent Board has
Jurisdiction over the case.
(Chinchilla/Astle: 2-3; Baird, Flynn, and Payne
dissenting).

MSC²: To find that the building is exempt from the
Rent Ordinance and that the Rent Board has no
jurisdiction over the matter.
(Flynn/Payne: 3-2; Astle and Chinchilla
dissenting).

President Baird went on record to mention that the Board had consulted with Deputy City Attorney Pennypacker who advised them that there was no apparent conflict of interest in having Commissioner Flynn vote on this case.

VII. Consideration of Appeals (Continued)

B. 2503 Union St.

(See case discussion in June 5, 1984 Minutes)

MSC: To uphold the Hearing Officer and deny the appeal.
(Chinchilla/Alviar: 3-2; Flynn and Payne
dissenting).

C. 91 Central

Landlord appealed Hearing Officer's decision which disallowed the pass through of capital improvement costs, some of which were incurred under the RAP loan project. Tenants objected to the costs on the basis that some of the work was not completed, some of it was substandard and already deteriorating, certain improvements were cosmetic and not needed, and that work done to individual units was being passed on to all tenants. Hearing Officer disallowed the petitioned-for costs because landlord did not present proper documentation to differentiate between work done to individual units and common areas, that invoices and cancelled checks were

not correctly offered to support the costs, that some costs appeared to be repairs, and that the increase notices were void since they didn't comply with the requirements of the Ordinance. Landlord appealed that the RAP procedure didn't require invoices and checks and that non-RAP costs were properly documented under the Ordinance; that repair costs had been subtracted from the petitioned-for expenses; that the costs had been properly distributed between individual and common area; and that the Building Inspector found the building up to code upon completion of the work.

MSC: To delay discussion of the case one week.
(Payne/Alviar: 4-0).

D. 2600 Union St.

Tenant appealed Hearing Officer's determination allowing imposition of certain capital improvement and operating and maintenance costs because of her financial hardship. Tenant protested that she is already paying more than market rent for her unit, that some other tenants in the building pay less but receive more services, and that she would have to give up her job if she had to move because of financial hardship. Landlord rebutted that tenant's unit had been remodeled at tenant's request and that her lease clearly states which services she does and does not receive.

MSC: To deny the appeal and uphold the Hearing Officer.
(Chinchilla/Alviar: 4-0).

VIII. Old Business (continued)

B. 2120 Pacific Ave.

Appeals Attorney Alicia Wicks submitted a chart with a detailed breakdown of the rent components involved in the various approaches considered by the Board in this case. After discussion, the Board voted as follows:

MSC¹: To excuse Commissioner Payne from this case.
(Payne/Alviar: 5-0).

MSC²: To adopt the calculations of the submitted chart and approve the new rental amounts set in the column "allowable increases." (Flynn/Chinchilla: 3-1, Baird dissenting).

IX. Appeal Hearing

A. 144-150 Carl St.

An appeal hearing was set for 6:00 p.m. and began on the record at 6:53 p.m. Attending were the following: Landlord Richard Klein;

landlord's attorney Peter Zouras; landlord's representatives Danny Reynolds and Marvin Jauch; and landlord's witnesses Judith Teichman, John Barbagelata, and John Rathsam and witness Raymond Levy. Also appearing were tenants Christine Todd, William Crandall, Jr., and tenants' attorney Rick Ames.

Landlord and tenants had both appealed Hearing Officer's decision concerning a RAP case. Landlord questioned Hearing Officer's determination that only the RAP loan amount- and not the purchase mortgage loan- would be passed on to the tenants; that certain maintenance costs had been disallowed; and that the Hearing Officer allowed tenants to pay disputed rent over a 12 month period.

Tenants objected to Hearing Officer's determination that the method used for calculating the yearly costs of living adjustment was proper; that additional insurance and property tax costs were allowed; that decrease in service and failure to maintain arguments had been disallowed; and that rent increases were made retroactive to August 1982.

Landlord presented witnesses Teichman, Barbagelata, and Rathsam to testify as to the legislative intent and legislative history of the RAP Ordinance. Landlord maintained that both the intent and practice has been to pass on all loan payments, not just those involved in RAP rehabilitation. Tenants protest that this approval of all loan costs is unreasonable and allows an unwarranted circumvention of the limitations on rent increases that are afforded the majority of tenants in San Francisco.

Landlord further protested the disallowance of maintenance costs; both sides relied on their appeal briefs on this issue. Landlord asked that the Commissioners immediately set a repayment schedule for withheld back rent for the last 16-18 months and questioned the Rent Board's jurisdiction to order incremental payments of outstanding rent.

Tenants protested the manner in which the cost of living adjustment was computed, insisting that the owner received a double recovery by figuring increases both on the rise in the cost of living and increases in taxes, insurance, and maintenance. Also, tenants protested the ruling that the Rent Board had no jurisdiction over the issue of decreases in service or failure to maintain the property; that even though the Rent Ordinance doesn't specifically grant this right, neither does it exclude such an action. Finally, tenants request that any allowable increase not be made retroactive to the July 1982 notice date, in that it would present a financial hardship to the tenants; and they further noted that landlord had refused some rental payments.

The hearing was closed at 8:40 p.m. It was the consensus of the Commissioners to delay making a determination for one week.

X. Communications

- A. Staff member Wicks submitted the decision with extensive rent component breakdown for 645 Leavenworth/825 Post. The Commissioners approved the decision.
- B. The May 1984 staff statistical report was presented to the Board.

XI. Director's Report

- A. Executive Director Hernandez responded to questions from the Board about allocation of funds for the staff computer.
- B. Director Hernandez reported that he will attend the Board of Supervisors finance committee discussion of the Rent Board budget for the next fiscal year on Tuesday, June 19, 1984.

XII. Old Business

- A. Commissioner Astle reported on the meeting concerning eviction procedures by several Commissioners and staff members with Bob Perez from the District Attorney's office. The Commissioners expressed a need to meet to discuss Board handling of eviction matters.
- B. Commissioner Payne asked for clarification on the subject of the Board's annual report.
- C. The Board again brought up the idea of a "retreat" to discuss Commission subjects.

XIII. New Business

- A. Commissioner Alviar discussed sending representatives from the Board and staff to the national rent stabilization conference in Berkeley, June 21, 22, and 23, 1984.

MSC: That the Rent Board look into funding the attendance of any Commissioner or staff person who wishes to attend. (Alviar/Chinchilla: 4-0).

- B. Commissioner Marshall requested that the Board institute a somewhat more formal procedure for presenting individual views and debating issues among themselves. Other Board members agreed that it would be preferable for the chair to recognize a Commissioner before that person began speaking.

XIV. Calendar Items

June 19, 1984

3 appeal considerations
1 appeal hearing (1441 Jones St. #204)
Old Business - 144-150 Carl St.

June 26, 1984

No items scheduled

XV. Remarks from the Public

- A. Tenant attorney Robert Burch discussed a potential problem with Rent Board decisions being deemed a ban to further action in Superior Court, even though issues beyond the jurisdiction of the Rent Ordinance were being heard in the higher Court.

XVI. Adjournment

President Baird adjourned the meeting at 10:16 p.m.

6/14/84:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 19, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

DOCUMENTS DEPT.

President Baird called the meeting to order at 5:30 p.m.

JUN 25 1984

II. Roll Call

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Commissioners Present: Alviar, Baird, Chinchilla, Jackson
Commissioners Not Present: Astle, Flynn
Staff Present: Francis, Hernandez, Wolf

Commissioner Payne appeared on the record at 5:32 p.m.; Commissioner Moy appeared at 5:40 p.m.; Commissioner Marshall came on the record at 6:10 p.m.; and Commissioner Chan appeared at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 12, 1984, as submitted.
(Alviar/Chinchilla: 4-0)

IV. Consideration of Appeals

A. 870 Clay Street

Tenant appealed Hearing Officer's determination that the subject building was exempt from Rent Board jurisdiction due to substantial rehabilitation, and that therefore the issues of improvements, maintenance and comparables were moot. Tenants allege that the substantial rehabilitation exemption does not apply in this case as it was not applied for by the owners, nor was the work completed at the time of filing.

MSC: To accept this appeal and remand this case to a new
Hearing Officer. (Alviar/Payne: 4-0)

B. 815 O'Farrell #506

Tenant appealed Hearing Officer's decision allowing increases due to capital improvements and increased operating and maintenance expenses. Tenant alleged that, as these improvements commenced prior to his moving in, he should not have to pay the costs. Hearing Officer held that this tenant was a de facto sub-tenant and that the date of beginning of tenancy of the original tenant should be applied to him.

MSC: To deny this appeal and uphold the decision of the Hearing
Officer. (Payne/Chinchilla: 4-0)

C. 2005 Lyon

Tenants appealed Hearing Officer's finding that the owner of this

property had met his burden of proof regarding the 6 month owner occupancy requirement for exemption from the Rent Ordinance.

MSF: To deny this appeal (Chinchilla/Payne: 2-2; Alviar and Baird dissenting).

MSC: To accept this appeal and schedule a de novo hearing at the Board level (Payne/Alviar: 4-0).

D. 91 Central

Landlord appealed Hearing Officer's decision which disallowed the pass through of capital improvement costs, some of which were incurred under the RAP loan project. Tenants objected to the costs on the basis that some of the work was not completed, some of it was substandard and already deteriorating, certain improvements were cosmetic and not needed, and that work done to individual units was being passed on to all tenants. Hearing Officer disallowed the petitioned-for costs because landlord did not present proper documentation to differentiate between work done to individual units and common areas, that invoices and cancelled checks were not correctly offered to support the costs, that some costs appeared to be repairs, and that the increase notices were void since they didn't comply with the requirements of the Ordinance. Landlord appealed that the RAP procedure didn't require invoices and checks and that non-RAP costs were properly documented under the Ordinance; that repair costs had been subtracted from the petitioned-for expenses; that the costs had been properly distributed between individual and common areas; and that the Building Inspector found the building up to code upon completion of the work.

MSC: To accept this appeal and schedule a de novo hearing at the Board level (Payne/Alviar: 4-0)

V. Old Business

A. 144-150 Carl Street (Continued from June 12, 1984)

Refer to Minutes of June 12, 1984 for discussion of the issues in this case (Appeal Hearing).

MSC¹: To excuse Commissioner Moy from consideration of this case (Payne/Alviar: 4-0).

- MSC²:
- A. That the non-RAP (purchase) loan should be computed as part of the rent increase;
 - B. That tenants' claims regarding maintenance costs should be denied;
 - C. That the method used for calculating the yearly cost of living adjustment was proper and should be applied;
 - D. That tenants' decrease in service and failure to maintain arguments should be denied in that the statute disallows such filing; and

- E. That the rent increase should be effective retroactive to the date a valid notice had been issued.

Note: The Board deferred consideration of a repayment schedule until staff provides a calculation of the amounts owing. (Baird/Alviar: 4-0)

VI. Appeal Hearing

A. 1441 Jones St., #204

An appeal hearing was scheduled for 6:00 p.m. and began on the record at 6:10 p.m. In attendance were tenant appellant Peter Earley and his attorney, Thomas Gill, and landlord's agent, Judith Scott.

Tenant appealed Hearing Officer's determination that, as none of the original tenants resided any longer at the subject unit, "vacancy de-control" had been triggered and a series of rent increases were in fact allowable under the Ordinance. Tenant's contention was that since rent checks had been accepted from him by landowner since December of 1981, no new tenancy was created by his room-mate having moved out. Landlord's contention was that a verbal agreement existed that acknowledged the creation of a new tenancy. Tenant maintained that he had entered into such agreement due to the threat of eviction and had not knowingly waived his rights under the law. The hearing was closed at 6:40 p.m.

MSC: That Mr. Earley was a tenant and the rent increase of April, 1983 was void as the proper anniversary date was January of 1984. (Chinchilla/Alviar: 5-0).

VII. Communications

- A. Decisions for 2120 Pacific and 40 Cervantes were submitted to the Board and approved.
- B. The Board received copies of a letter sent to City Attorney George Agnost inquiring as to the legality of the Board's recent Policy Directive regarding rent increases for newborn children.
- C. Arrangement for Staff and Commissioners wishing to attend the National Rent Control Conference in Berkeley on June 22nd and 23rd were discussed.

VIII. New Business

- A. Upcoming Board meetings were discussed in light of the lack of agenda items for the week of June 26th and the Democratic National Convention on July 17th.

MSC: To cancel the Board meetings scheduled for June 26, 1984 and July 17, 1984 (Alviar/Chinchilla: 5-0).

IX. Director's Report

- A. Executive Director Hernandez reported that the Board of Supervisors finance committee meeting regarding the Rent Board budget has been changed from Tuesday, June 19, 1984 to either June 26th or 28th.

X. Adjournment

President Baird adjourned the meeting at 7:10 p.m.

6/21/84:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 3, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Vice-President Chinchilla called the meeting to order at 5:33 p.m.

II. Roll Call

DOCUMENTS DEPT

JUL 9 1984

Commissioners Present:
Commissioners Not Present:

Astle, Chinchilla, Jackson
Alviar, Baird, Flynn, Payne, Marshall
SAN FRANCISCO
PUBLIC LIBRARY

Staff Present:

Hernandez, Wicks

Commissioner Chan appeared on the record at 5:40 p.m. Commissioner
Moy came on the record at 5:48 p.m.

III. Approval of the Minutes

To approve the Minutes of June 19, 1984. (Astle/Jackson: 3-0).

IV. A. 878 York Street

Landlord appealed Hearing Officer's decision granting tenants a decrease
in services award for tenants' loss of garage use after landlords asked
them to vacate. Landlord did not specify the nature of his objections
to the Hearing Officer's decision.

MSC: To uphold the Hearing Officer and deny the appeal.
(Jackson/Astle: 3-0).

B. 1501 Lincoln Way #6

Tenant appealed the determination of the Hearing Officer that tenant would
be responsible for a 7% increase on the residence and garage agreed to as
part of a court settlement reached in conjunction with a dispute over
garage use. The settlement was later overturned because tenant could not
fit his car into the space provided by the settlement. Hearing Officer
based her decision partly on the fact that tenant had used the old garage
space for two years after the settlement went into effect. Tenant main-
tained that the increase had been rendered null and void when the settle-
ment was set aside. The parties are continuing the matter in court.

MSC: To deny the appeal and uphold the Hearing Officer.
(Astle/Jackson: 3-0).

C. 25 Delmar

Tenant appealed Hearing Officer's decision allowing landlord to pass on
certain capital improvement costs. Tenant felt that some of the work
was in the nature of repairs, not improvements; and that all of the work
done was required for reasons of habitability and therefore the costs

should be assumed by the landlord, not the tenants.

MSC: To uphold the Hearing Officer and deny the appeal.
(Jackson/Astle: 3-0).

D. 1105 Bush #403

Tenants appealed the result of a determination in which Hearing Officer ruled on matters still in dispute from a prior decision. Landlord insists that efforts have been made repeatedly to perform the repairs complained of by the tenants, but that tenants have been uncooperative in allowing landlord access to make such repairs. Hearing Officer therefore allowed a rent increase previously denied because of maintenance problems.

MSC: To deny the appeal and uphold the Hearing Officer.
(Astle/Jackson: 3-0).

V. Communications

- A. The Commissioners received an invitation from the Berkeley Rent Board to attend the swearing in of their newly-elected Commissioners. A copy of the Berkeley organization's most recent Newsletter was also received.
- B. The Hearing Officer from the case at 1105 Bush submitted a response to the appeal.

VI. Director's Report

- A. Director Hernandez mentioned that 96 eviction petitions were received by the Rent Board the month of June.
- B. Mr. Hernandez referred to the continuing meetings over the budget proposal.
- C. Staff member Alicia Wicks spoke to the Russian Hill Forum June 28.

VII. Old Business

- A. 144-150 Carl - The computations for the amount of increase due from the tenants at this address were given to the Commissioners for their approval.

MSC: a. To allow Commissioner Astle to be excused from this case.
b. To continue the discussion for one week since a quorum was not present. (Astle/Jackson: 4-0).

- B. 34 Turk - The decision on this case was presented to the Commissioners for their approval.

MSC: To approve the decision as written. (Jackson/Chinchilla: 3-1,
Astle dissenting).

VIII. New Business

- A. Staff member Alicia Wicks reported on current work being done by several agencies in researching the artist live-work issue. Supervisor Renne has requested input on the subject from both the Rent Board and the City Attorney's office.

IX. Calendar Items

July 10, 1984

3 appeal considerations

1 appeal hearing

July 17, 1984

No Meeting

X. Adjournment

Vice President Chinchilla adjourned the meeting at 6:04 p.m.

7/5/84:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 10, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

52
2
0/84
I. Call to Order

Vice-President Chinchilla called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Astle, Chinchilla, Jackson, Moy

Commissioners not Present: Alviar, Baird, Flynn, Payne, Marshall

Staff Present: Francis, Wicks

Commissioner Chan appeared on the record at 5:33 p.m. and went off the
record 7:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 3, 1984.
(Astle/Jackson: 4-0).

DOCUMENTS DEPT.

IV. Appeal Considerations

OCT 18 1984

A. 1340 Leavenworth St.

SAN FRANCISCO

Current landlord appealed Hearing Officer's determination that
tenant be granted a \$50 per month decrease in service award for loss
of the use of part of the residence because of leaks. Landlord main-
tained that he, the new owner, had not been given notice of the
hearing or received the decision although he became legal owner of
the property on or about January 26, 1984. Tenant filed the petition
December 30, 1983 and the hearing notice was sent to the then-
current owner on January 20, 1984. Tenant pointed out a mistaken
date in the decision.

MSC: To deny the appeal and uphold the Hearing Officer;
to make a technical correction to change
"December 24, 1983" to "November 24, 1983."
(Astle/Chinchilla: 4-0).

B. 434 Moscow St.

Landlord appealed Hearing Officer's decision that allowed decrease
in service awards for various problems in the apartment and loss of
garage use; and denying a rent increase because of failure to make
needed repairs. Landlord argued that the Rent Board had no jurisdic-
tion over the case since he was the owner-occupier of the two-unit
building.

MSC: To hear the case at the Board level on the jurisdictional issue only. (Astle/Jackson: 4-0).

C. 3625 Fillmore St.

Landlord appealed Hearing Officer's ruling that denied certain capital improvement expenses incurred by the previous landlord. Hearing Officer found some work to be repairs; she allowed some costs disallowed by the estimator and disallowed others recommended for approval. Hearing Officer also subtracted from the amortization periods the 29 months that passed between the time the work was completed by the previous owner and the purchase by the new owner, concluding that the purchaser could not "bank" capital improvements performed by the former owner.

MSC: To remand the case to a new Hearing Officer to reconsider the issue of the amortization periods for the capital improvements.
(Astle/Jackson: 4-0).

V. Communications

- A. The statistics for June 1984 were distributed to the Commissioners.
- B. The decision for the appeal hearing at 1441 Jones St. was submitted for the Commissioners' approval.

MSC: To approve the decision on 1441 Jones St.
(Astle/Jackson: 4-0).

- C. A response from the tenants at 3625 Fillmore St. was received.

VI. Director's Report

- A. Senior Hearing Officer Susan Francis informed the Board of the results of the Finance Committee's consideration of the proposed Rent Board budget.
- B. Civil Service has been requested by the Finance Committee to consider reclassifying Rent Board staff positions.
- C. Ms. Francis reported on the management audit made recently of the Rent Board.
- D. Commissioner Astle made inquiries about reports of wrongful evictions, which have not been brought to the Board's attention in the recent past. She asked that a breakdown of the eviction cases filed be distributed to the Board on a monthly basis.
- E. Staff member Alicia Wicks introduced the staff's summer law clerk, Kevin Finnigan.

VII. Old Business

- A. The calculations for 144-150 Carl St. were reviewed by the Board. It was the consensus to excuse Commissioner Astle.

MSC¹: That the amount for 8/1/82 to 7/30/83 be due by July 30, 1984. (Moy/Jackson: 3-0).

MSC²: To have the amount for 8/1/83 to 7/30/84 due in six equal monthly payments; or, if any tenant agrees in writing to the payment for this period, the balance due may be paid in 12 monthly installments. (Moy/Jackson: 3-0).

- B. Commissioner Astle inquired about the process for reprimanding an attorney. This issue will be discussed at a future meeting.

VIII. Appeal Hearing

1. 91 Central

A hearing on this matter was scheduled for 6:00 p.m. and began at 6:11 p.m. Appearing were landlord-appellant James Koski and his attorney Nancy Lenvin; and tenants Edward White, David Mendivil, Mark Roche, Mary Kay Landon, Lois Roth, and their representative Elizabeth Benford.

Landlord had appealed Hearing Officer's decision which disallowed the pass-through of capital improvement costs, some of which were incurred under the RAP loan project. Hearing Officer had disallowed the petitioned-for costs because landlord did not present proper documentation to differentiate between work done to individual units and common areas, that invoices and cancelled checks were not correctly offered to support the costs, that some costs appeared to be repairs, and that the increase notices were void since they didn't comply with the requirements of the Ordinance.

At the appeal hearing landlord testified that the RAP procedure didn't involve invoices and checks and that non-RAP costs were properly documented under the Ordinance, and that further repair costs had already been subtracted from the petitioner-for expenses. Landlord also testified that the Building Inspector found the building up to code upon completion of the work. Landlord requested that his improvement costs be revised to include the costs of interest, which he had assumed would be automatically added by the Rent Board. Tenants objected to the costs on the basis that some of the work was not completed, some of it was substandard and already deteriorating, and that certain improvements were cosmetic and not needed. Tenants further insist that they have already paid for the work over the past two and a half years since they have been paying for the RAP loan incurred to finance the improvements.

Having accepted the documentation submitted and having considered all testimony, the Commissioners issued the following order:

1. To allow a capital improvement pass-through of \$56.89 per month, amortized appropriately over $4\frac{1}{2}$ years and $7\frac{1}{2}$ years.
2. To declare the increase of January 1, 1984, null and void; a new 30-day notice must be given.
(Astle/Jackson: 4-0).

IX. Calendar Items

July 17, 1984 - Meeting cancelled

July 24, 1984

4 appeal considerations
1 appeal hearing

X. Adjournment

Vice-President Chinchilla adjourned the meeting at 7:56 p.m.

7/13/84:ap

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 24, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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SAN FRANCISCO

I. Call to Order

President Baird called the meeting to order at 5:31 p.m.

II. Roll CallCommissioners Present: Alviar, Baird, Chinchilla, Payne, Astle,
Marshall, Moy.

Commissioners not Present: Flynn, Jackson

Staff Present: Wicks

Commissioner Chan appeared on the record at 5:40 p.m. Executive Director
Hernandez appeared on the record at 5:55 p.m.III. Approval of the MinutesMSC: To approve the Minutes of July 10, 1984, as
written. (Chinchilla/Moy: 5-0).IV. Appeal Considerations

A. 527 Castro St.

Landlord appealed Hearing Officer's determination that disallowed certain capital improvement costs. Hearing Officer did not grant costs for installation of a sprinkler system installed four months after tenants took up residence. Also disallowed were 1982 costs of redoing a roof previously roofed in 1979. The sprinkler costs were not approved because they were installed within six months of initial occupancy. The roof costs were rejected since the life expectancy of the previous roof job was ten years and the amortization period had not yet run. Landlord argued that BBI mandated the sprinklers several months after subject tenants moved in, and that the prior roofers had done a substandard job that had to be corrected.

MSC: To remand for a new hearing on all capital
improvement issues raised on appeal.
(Payne/Alviar: 3-2; Baird and Chinchilla
dissenting).

B. 48 Haight St.

Tenant appealed Hearing Officer's ruling that no substantial decrease in service had been proved when landlord replaced a defective 80 pound water pressure regulator, with a 70 pound regulator, resulting in poor water pressure and unexpected changes to scalding hot or extremely cold water. Tenant had also unsuccessfully asked for an award for a leaky toilet and broken hall window.

MSC: To uphold the Hearing Officer and deny the appeal. (Payne/Chinchilla: 5-0).

C. 239 San Jose Ave.

Tenant appealed Hearing Officer's decision that ruled on a continuing dispute based on an earlier conciliation reached by the parties before the Rent Board. Landlord's proposed increase was stayed, pending completion of needed improvements. Landlord did not make the agreed-on repairs by the specified time, so tenants did the repairs and deducted a small portion of the cost, calculating the amount of the lost stayed increase as the balance of the reimbursement of their cost. Hearing Officer ordered landlord to pay tenants for the cost of the work and allowed landlord to assess a capital improvement charge for the work, as well as a banked amount to include the stayed increase. Tenant felt landlords had forever lost the disputed annual increase and that no capital improvement cost should be allowed since the necessary work was based on a health hazard cited by BBI.

MSW: To postpone consideration of this case for one week. (Alviar/Chinchilla).

MSC: To accept the appeal for a de novo hearing at the Board level. (Chinchilla/Payne: 5-0).

V. Communications

- A. Landlord's attorney for 1360 Lyon St., #1 wrote to say that the case at this address had been settled by court stipulation.
- B. The Commissioners were given a copy of a table delineating the number of arbitration hearings held, by month and year, over the last four years. They also received a breakdown of eviction reports filed by neighborhood area the last four and one-half years.
- C. The landlord from 237 San Jose Ave. wrote responding to the tenant's appeal.
- D. The appeal decision for 144-150 Carl St., was signed by the Commissioners.
- E. The appeal decision for 91 Central was reviewed. The Board noted several needed revisions and requested that the staff prepare a revised version for the July 31 meeting.

VI. Director's Report

- A. Executive Director Hernandez reported that the office counseling staff will be taking Civil Service exams this week.
- B. Director Hernandez discussed current budget hearings for this fiscal year's budget.

VII. Appeal Hearing

1. 2005 Lyon St.

A hearing was scheduled for 6:00 and began at 6:21 p.m. Present were tenants Don McNatt and Rebecca Hibbard, represented by attorney Steven Schectman; and landlord Richard O. Wasson, Jr., one of three involved landlords.

Tenant had appealed Hearing Officer's decision that the 3-unit building in question was exempt from the Ordinance because of owner occupancy, and that therefore a rent increase from \$894.30 to \$1,650.00 was valid. Tenants maintained that the owner-occupier - one of several owners - did not hold at least a fifty percent interest in the building; that he had not begun to occupy the building until the time of the Rent Board hearing. Tenants voluntarily vacated the apartment June 3, 1984.

At the appeal hearing co-landlord Wasson testified that the owners were willing to forget the issue of back rent and had made this clear to the tenants. Tenants argued that they had been constructively evicted because of the rent increase and that they wish to pursue the case further.

At the request of the parties, the Commissioners considered continuing the case for a short period of time.

MSC: To continue the case to 6:00 p.m., August 7, 1984. (Payne/Alviar: 5-0).

The case was continued at 6:44 p.m.

VIII. Old Business

- A. A trial is set for September 1984 involving a previous Rent Board decision.

IX. New Business

- A. The Commissioners deferred for one week discussion of attorney reprimand procedures.

X. Calendar Items

July 31, 1984

- 2 appeal considerations
- 1 appeal hearing

August 7, 1984

- 3 appeal considerations
- 1 appeal hearing

XI. Adjournment

President Baird adjourned the meeting at 6:51 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 31, 1984 at 5:30 p.m. at the State Building

350 McAllister St. #1195

I. Call to Order

President Baird called the meeting to order at 5:32 p.m.

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II. Roll Call

Commissioners Present: Baird, Chinchilla, Flynn, Payne, Astle, Chan

Commissioners not Present: Alviar, Jackson, Moy

Staff Present: Francis, Wicks

Commissioner Marshall appeared on the record at 5:34 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 24, 1984, with the following corrections: Page 3, VII Appeal Hearing: "At the appeal hearing co-landlord Wasson testified that the owners had told the tenants they were willing to forget the issue of back rent if the tenants would sign releases to any and all claims against the landlords." Page 3, IX New Business: "B. The Conflict of Interest policy for Hearing Officers was mentioned and will be discussed at the next meeting." (Chinchilla/Astle: 5-0).

IV. Appeal Considerations

A. 899 Pine St.

Both landlords and tenants appealed the Hearing Officer's decision granting landlord a utility pass-through for steam heat but disallowing an electricity pass-through.

MSC: To continue the case for one week to August 7, 1984. (Chinchilla/Astle: 5-0).

B. 2665-67 Sacramento St.

Landlord appealed Hearing Officer's ruling disallowing an operating and maintenance increase based on refinancing the building, since landlord could not show that the funds were used to repair or improve the building. Landlord maintained that no funds were generated by the refinancing since he was buying out his partner's share of the property; he therefore had no funds to turn back into the building.

MSC: To accept the case at the Board level to determine if an increase for operating and maintenance is justified because of the refinancing.
(Chinchilla/Flynn: 5-0).

V. Communications

- A. Attorney Amy Chung wrote to request a continuance of the appeal consideration at 1877 Green, set for August 7. The request was denied.

MSF: To allow landlord a continuance on this matter.
(Flynn/Payne: 3-2; Astle, Baird, Chinchilla, dissenting).

- B. The appeal decision for 91 Central was approved and signed.
- C. The Director of the Berkeley Rent Board wrote to thank staff member Alicia Wicks for her participation as a panelist at the National Rent Stabilization Seminar held June 22 and 23.

VI. New Business

- A. The Board's Hearing Officer conflict of interest policy was discussed. Further discussion will be held on this matter August 7, 1984.
- B. Senior Hearing Officer Susan Francis requested a clarification of the Board's position on interior painting of non-common areas. The Commissioners stressed that such painting is a housing service and must be petitioned for as an operation and maintenance expense, not a capital improvement.

VII. Remarks form the Public

- A. Robert De Vries, Esq. requested that this agenda item be moved up so he could comment on the conflict of interest policy for Hearing Officers. He urged the Board to take a strict interpretation of the policy.

VIII. Director's Report

- A. Ms. Francis reported briefly on the Civil Service exam taken last week by the entire counseling staff.

IX. Old Business

- A. The City Attorney's office inquired if the Board wishes to pursue the action on the Sutherland case. Staff will find out the status of the case and report to the Commissioners August 7, 1984.

- B. Ms. Francis discussed the attorney reprimand procedure. A drafted complaint will be prepared for discussion August 7, 1984.

X. Appeal Hearing

A. 864 Ellis St.

Landlord had appealed Hearing Officer's reduction in service award of 50 percent of a tenant's rent for severe leakage and ceiling damage. Tenant had maintained that the ceiling had to be covered with plastic and held up by scaffolding, making part of the apartment untenable.

Tenant further had testified that management had actual and constructive notice of leaks and damage in this unit and the building as a whole. Landlord had appealed on the basis that no notice had been given, that photos submitted were from another unit, that the award was excessive, and that a contractor would make repairs at a considerable expense.

An appeal hearing was scheduled for 6:00 p.m. Neither party had appeared at the scheduled time; but at approximately 6:15, the parties entered to inform the Commissioners that they had just reached a settlement. They were requested to inform the Board in writing of the settlement.

XI. Calendar Items

August 7, 1984

5 appeal considerations
1 appeal hearing

August 14, 1984

2 appeal considerations
1 appeal hearing

XII. Adjournment

President Baird adjourned the meeting at 6:26 p.m.

8/1/84:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 7, 1984 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

President Baird called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Alviar, Astle, Baird, Chinchilla, Flynn, Payne

Commissioners not Present: Chan, Jackson, Marshall, Moy

Staff Present: Francis, Hernandez, Vitrano

Commissioner Payne went off the record at 9:00 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of July 31, 1984 as written.
(Chinchilla/Alviar: 5-0).

IV. Consideration of Appeals

A. 1877 Green St.

Landlord appealed a Hearing Officer's decision which granted a reduction in rent due to a substantial decrease in housing services, alleging that the Hearing Officer abused his discretion.

MSC: To deny this appeal. (Chinchilla/Alviar: 4-1,
Commissioner Baird dissenting).

B. 1964 Pacific Ave. #4

Landlord appealed a Hearing Officer's decision denying a proposed rent increase based on the tenants new roommate, alleging that the Hearing Officer abused his discretion.

MSC: To accept this appeal for a de novo hearing at the Board level. (Chinchilla/Payne: 3-2;
Commissioners Baird and Flynn dissenting).

C. 4524-3rd St., Apt. B

Landlord appealed a Hearing Officer's decision which awarded a substantial reduction in rent to the tenants, based on a lack of heating. The landlord claims that he was too ill to attend the hearing.

MSC: To remand this appeal to the same Hearing Officer for another hearing. (Chinchilla/Flynn: 5-0).

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D. 146 McAllister St.

Landlord appealed a Hearing Officer's decision which denied a proposed rent increase based on operating and maintenance costs. Landlords appealed the decision claiming that the money from the refinancing of 146 McAllister was used for needed repairs of the building.

MSC: To deny this appeal. (Chinchilla/Flynn: 5-0).

E. 899 Pine St.

Consideration of this appeal was postponed from July 31, to August 7, 1984. Both sides involved in this case appealed the Hearing Officer's decision which granted the landlord a utility pass-through for steam heat but disallowed a proposed electricity pass-through.

MSC:¹ To deny the tenants' appeal. (Flynn/Alviar: 5-0).

MSC:² To accept the landlords' appeal and remand the case to a new Hearing Officer for a de novo hearing. (Chinchilla/Flynn: 5-0).

V. Director's Report

No Director's report was given.

VI. Appeal Hearing

1. 2005 Lyon St.

Originally this de novo hearing before the Board was scheduled for July 24, 1984. At the request of both parties, the Commissioners voted to continue the case to August 14, 1984 at 6:00 p.m.

The August 7th hearing began at 6:00 p.m. with tenants Mark Evans and Rebecca Hibbard represented by attorney Steven Schectman; and landlords Richard Wasson, Hugh Nathurst and Joseph Hennessey represented by attorney Benjamin Kaplan. Also testifying for the landlords was Eladia Gavulin, a real estate broker. The tenants in this case appealed the Hearing Officer's decision which found that the 3-unit building in question was exempt from the Ordinance because of owner occupancy, and that therefore a rent increase from \$894.30 to \$1,650.00 was valid. Tenants maintained that the owner-occupier- one of several owners- did not hold at least a fifty percent interest in the building; that he had not begun to occupy the building until the time of the Rent Board hearing. Tenants voluntarily vacated the apartment June 3, 1984.

At the appeal hearing on July 24, co-landlord Wasson testified that the owners were willing to forget the issue of back rent and had made this clear to the tenants. Tenants argued that they had been constructively evicted because of the rent increase and that they wish to pursue the case further.

At tonight's hearing, landlord Richard Wasserman centered his testimony on the history of purchasing the Lyon street property and his meetings with tenant Susan Brown. Co-landlord Hugh Nathurst, who resides at 2001 Lyon St., centered his narrative testimony on his lifestyle and business hours, which are irregular. Real Estate broker Eladia Ganulin testified she and her husband assisted Mr. Nathurst in moving to his current residence.

Tenants' attorney Schertman questioned utility bills of Mr. Nathurst along with questions concerning his business and other places of residence. Tenants Evans and Hibbard testified that Mr. Nathurst was seldom seen and they expressed doubt that 2001 Lyon is Mr. Nathurst's principle place of residence. The hearing concluded at 8:05 p.m.

- MSF¹: To uphold the original decision of the hearing officer. (Payne/Flynn: 2-3; Commissioners Alviar, Chinchilla, Baird dissenting).
- MSF²: To overturn the original decision of the Hearing Officer and find that the landlord has failed to carry the burden of proof and that the building was not exempt at the time of the proposed rent increase. (Chinchilla/Alviar: 2-3; Commissioners Payne, Flynn and Baird dissenting).
- MSF³: Given that the landlord has withdrawn the rent increase and does^{not} intend to pursue the award of the Hearing Officer, that the issue at hand is found to be moot. (Flynn/Payne: 2-3; Commissioners Alviar, Chinchilla, Payne dissenting).
- Commissioner Chinchilla requested that the Minutes reflect his view that there has been a "mischaracterization of the issues."
- MSF⁴: To table this matter for one week. (Alviar/Chinchilla: 2-3; Commissioners Payne, Flynn, Baird dissenting).
- MSF⁵: To uphold the Hearing Officer's decision and to reflect in the decision that the landlord has agreed not to pursue the award granted by the Hearing Officer and that the issue is moot. (Payne/Flynn: 2-3; Commissioners Alviar, Chinchilla, and Baird dissenting).
- MSC: To table the matter for one week so as to enable the Rent Board staff to secure from one of the appointed legal spokesmen of the trust, an affidavit stating the intention of the trust with regards to the award granted by the original Hearing Officer. (Chinchilla/Alviar: 5-0).

VII. Communications

- A. A letter from the tenant of 1964 Pacific was received by the Board. The letter was commenting on the appeal made by the landlord.

VIII. New Business

- A. Rent Board Staff Appearances Before Judicial Bodies

Discussion ensued over the policy regarding staff appearances before judicial bodies. Discussion centered primarily on the need and necessity of subpoenas along with the role of city agencies and other legal bodies.

IX. Old Business

- A. Hearing Officer's Conflict of Interest Policy

Discussion ensued over the current and past status of the Board Policy regarding Conflict of Interest. Further discussion on this matter will be continued and this matter will be calendared for the August 28th meeting.

- B. Attorney Reprimand

This matter will be continued for one week in order that the exhibits can be examined.

- C. Sutherland case update

To discuss the current status of this case, the Board went into Executive Session.

Executive Session

The Board went into Executive Session at 9:19 p.m. to discuss the latest developments with the Sutherland case which was referred to the District Attorney's office. The Board came back on the record at 9:23 p.m.

X. Calendar Items

August 14, 1984 -

- 2 Appeal considerations
1 hearing

August 28, 1984

- 3 considerations

XI. Adjournment

President Baird adjourned the meeting at 9:23 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, August 14, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Baird called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Flynn, Payne, Chan, Marshall

Commissioners not Present: Chinchilla, Astle, Jackson, Moy

Staff Present: Francis, Wicks

III. Approval of the Minutes

MSC: To approve the Minutes of August 7, 1984 with the
following corrections:

Page 3: "... landlord Richard Wasson ..."

Page 4: "... the City Attorney's office."

(Flynn/Payne: 5-0)

IV. Consideration of Appeals

A. 495 -32nd Ave.

Landlord appealed Hearing Officer's decision disallowing certain capital improvement costs because of deferred maintenance; and disallowing various operating and maintenance expenses which the Hearing Officer found to be unsubstantiated and questionable. Landlord maintained that the work was deferred because of financial difficulties resulting from the low rents in the building; that all operating costs were genuine; and that careful management had resulted in large savings in operating and improvement expenses.

MSC: To accept the appeal and hear the case at the Board level, limited to operating and maintenance issues.
(Flynn/Payne: 5-0)

B. 2262 -20th Ave.

Landlord appealed the determination of the Hearing Officer in which tenant was awarded decrease in service refunds for lack of proper heat and lack of full use of the kitchen existing from the time tenant moved in. Landlord argued that tenant was provided with space heaters and informed of this arrangement before she took up residence. He also maintained that he had remodelled the kitchen voluntarily before tenant moved in and that only minor painting remained unfinished when she took up residence.

MSC: To deny the appeal. The Commissioners recognize that there is an unresolved issue as to whether this is a contract dispute or a decrease in services, but in the spirit of arbitration, the Board feels the Hearing Officer made a correct decision.
(Flynn/Baird: 4-1; Commissioner Payne dissenting)

V. Director's Report

- A. Deputy Director Susan Francis reported that the staff members who recently took the Civil Service exam all passed.
- B. Ms. Francis commented on the increase in questions about security deposit interest payments, due September 1, 1984. The Commissioners requested that the staff make a fact sheet to give to the public.

VI. Old Business

- A. 2005 Lyon (Appeal hearing 7/24/84 and 8/7/84)

The Board received documents submitted by the owners in response to the Board's request.

MSC¹: To excuse Commissioner Chan because he was not present at the hearing.
(Flynn/Alviar: 5-0)

MSF: That the Hearing Officer's decision be upheld; it is the Board's opinion that given the documents submitted by the landlords, no money is due the tenants.
(Payne/Flynn: 2-2; Commissioners Baird and Alviar dissenting)

- MSC²:
- a. To reopen the record to admit the documents submitted by the landlords;
 - b. Given the statements made by the landlords in the declaration, the petition alleging an unlawful increase is moot as the landlords do not seek increased rent and the tenants have vacated.
(Flynn/Alviar: 3-1; Commissioner Payne dissenting)

- B. The Board discussed the attorney reprimand issue and signed the relevant documents in the case at issue.
- c. The topic of Board - Staff involvement in court appearances will be discussed in Executive Session in two weeks.
- D. Commissioner Marshall reported that the Costa Bill has been withdrawn and may be dead for this session.

E. Ms. Francis pointed out an omission in the 91 Central appeal decision.

MSC: That any amounts owing shall be due in six equal monthly installments.
(Payne/Alviar: 5-0)

VII. Appeal Hearing

2665-67 Sacramento St.

A hearing was scheduled for 6:00 p.m. and began at 6:18 p.m. Appearing were landlord-appellant Edward Meade Smith and tenant-respondents Paul Kitzerow and Camille Cutino. All parties represented themselves.

Landlord had appealed Hearing Officer's ruling disallowing an operating and maintenance increase based on refinancing the building, since landlord could not show that the funds were used to repair or improve the building. Landlord maintained that no funds were generated by the refinancing since he was buying out his partner's share of the property; he therefore had no funds to turn back into the building.

At the appeal hearing the issue was limited to the issue of increased debt service. Landlord-appellant testified that he had bought his partner's share of the property; therefore the resulting debt service increase was not a refinancing but rather a purchase. The tenants objected that the documentation was unclear and that they were not certain that the landlord was responsible for paying all of the debt service increase. The landlord responded that two close relatives were on the deed as nominees for probate purposes only. The hearing was closed at 6:41 p.m.

MSC: The landlord has carried his burden of proof and is to be awarded a 7% increase of each tenants' base rent because of increased debt service, based on the findings and calculations in the Hearing Officer's decision.
(Payne/Flynn: 5-0)

VIII. Calendar Items

August 21, 1984

3 considerations

August 28, 1984

3 considerations
1 hearing

IX. Adjournment

President Baird adjourned the meeting at 7:25 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, August 21, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Vice-President Chinchilla called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle, Chinchilla, Jackson, Marshall, Moy

Commissioners not Present: Alviar, Baird, Chan

Staff Present: Hernandez, Wolf

Commissioner Flynn appeared on the record at 5:39 p.m. Commissioner Payne
appeared at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 14, 1984 with the
following corrections: Page 2: "MSF: That the
Hearing Officer's decision be upheld; it is the
Board's opinion that given the documents submitted
by the landlords, no money is due the landlords."
VI. Old Business (C): The topic of Board-staff
involvement in court appearances will be discussed
in Executive Session on September 4, 1984.

IV. Consideration of Appeals

A. 1111-1139 D Green St.

Landlord appealed Hearing Officer's decision disallowing a rent
increase based primarily on increased debt service as the landlord
failed to meet his burden of proof. An issue in this case was the
untimely filing of the landlord's appeal.

MSC: To deny this appeal. (Astle/Marshall: 5-0).

B. 3848 Sacramento St.

Landlord appealed Hearing Officer's decrease in services award to
tenant based on continuing leaks and water damage. Landlord argued
that he had made good faith efforts to repair the leaks and that
tenant's argument was more properly that of a failure to make
requested repairs. Tenant appealed Hearing Officer's finding that
he lacked jurisdiction to rule on the lawfulness of a rent increase
issued to tenant during the two-year moratorium period on rent
increases provided for under the Subdivision Code.

MSC: To accept tenant's appeal and have a de novo hearing at the Board level. (Astle/Marshall: 4-1; Commissioner Flynn dissenting).

MSC: To accept landlord's appeal and have a de novo hearing at the Board level. (Payne/Flynn: 5-0).

C. 1476 Valencia St.

Landlord appealed an amendment to Hearing Officer's decision which provided that sums owing to landlord be paid by tenants in six monthly installments as opposed to in one lump sum.

MSC: To deny landlord's appeal. (Astle/Marshall: 5-0).

V. Communications

A. The Board received a letter from David Roberti, President Pro Tempore of the State Senate, thanking them for their letter expressing opposition to the Costa Bill.

B. The Board was given a copy of a letter issued by American Realty & Construction Co. to prospective tenants requiring them to provide either verification of income or a deposit totalling six month's rent plus \$350. Board members requested that staff write a letter informing American Realty of the requirements of Section 1950.5 of the State Civil Code, which limits deposits to two months' rent for unfurnished and three months' rent for furnished apartments. *

C. Board members were given a copy of a rent increase notice issued by Anidia Zabala of 2361 Bryant Street. The landlord's appeal in this case will be considered on September 4, 1984.

D. A copy of an editorial from the San Francisco Chronicle regarding Guenter Kaussen was given to the Board.

E. The Board was given a copy of the postponement notice mailed to the parties involved in the 1964 Pacific case, originally scheduled to be heard August 21, 1984.

F. The Board received a letter from the law office of Kenneth Fukuda requesting advice and clarification regarding the Ordinance's relationship to the eviction of resident managers. The Board instructed staff to draft a response letter.

G. Board members received a copy of an item in the San Francisco Progress regarding the Ordinance requiring the payment of interest on security deposits.

VI. Director's Report

- A. The Board received the monthly statistics for July. Executive Director Hernandez noted the unusually high volume for a summer month.
- B. Executive Director Hernandez informed the Board that classification of management positions at the Rent Board will be considered by the Civil Service Commission on August 27, 1984. It appears that a Supplemental will have to be requested from the Board of Supervisors for funding of the Eviction Unit.
- C. Mr. Hernandez reported on the status of site preparation work for the new computer system.

VII. Old Business

- A. Upon a request from Commissioner Payne, the issue of staff involvement in court appearances will be discussed in Executive Session on September 11th rather than September 4, 1984.
- B. The issue of Hearing Officer Conflict of Interest was indefinitely postponed.

VIII. Calendar Items

August 28, 1984

3 considerations
1 appeal hearing

IX. Remarks from the Public

- A. An attorney from the San Francisco Lawyers' Committee for Urban Affairs expressed his feeling that counsel is at a disadvantage when representing parties before the Rent Board, as policy exists that is not contained in the Rules and Regulations (i.e., prospective debt service.)

X. Adjournment

Vice-President Chinchilla adjourned the meeting at 6:35 p.m.

8/23/84:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, August 28, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Vice-President Chinchilla called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Alviar, Chinchilla, Payne, Astle, Chan,
Jackson, Marshall, Moy.
Commissioners Not Present: Baird, Flynn
Staff Present: Hernandez, Wicks

III. Approval of the Minutes

MSC: To approve the Minutes of August 21, 1984.
(Payne/Alviar: 5-0)

IV. Appeal Considerations

A. 289 States

As the Commissioners had not had sufficient time to review the
appeal statements, they passed the following motion:

To delay consideration of this case to September 4, 1984.
(Marshall/Alviar: 5-0)

B. 421 Leavenworth #25

Landlord appealed Hearing Officer's decision granting tenant a large
decrease in services award for conditions in the building, operated by
a nonprofit corporation. The building was undergoing extensive reno-
vation. Tenant testified that the elevator had not worked for at least
6 months; that holes in the wall allowed a serious infestation of mice
and cockroaches, resulting in her child receiving bites over a 4 month
period and injecting rodent poison; that the plumbing was often clogged
for several months; and that other habitability problems existed. Land-
lord claimed tenant had been informed that problems would exist as a re-
sult of the renovation work.

MSC: To deny the appeal and uphold the Hearing Officer.
(Alviar/Marshall: 5-0)

C. 737 Monterey

Tenant appealed Hearing Officer's determination allowing certain capi-
tal improvement expenses and denying others as repairs. Appealing tenant
claimed that he had already paid for some of the allowed improvements in
a large increase in 1983. He felt that he should therefore be given a
rebate for the overpayment, as an off-set to the capital improvement
award.

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MSC: To remand the case to the same Hearing Officer with instructions to consider the illegal rent increase of June 1983.
(Payne/Moy: 4-1; Commissioner Marshall dissenting)

V. Appeal Hearing

434 Moscow

A hearing was scheduled for 6:00 p.m. to discuss the issue of whether or not the Rent Board has jurisdiction over the subject property. The hearing began on the record at 6:09 p.m. with the following parties present: landlord-appellant Richard Fowler and his representative Thomas Wright, Jr., as well as tenant-respondent Isolina Picon and her representative Nena Cameron.

Landlord had appealed Hearing Officer's decision that allowed decrease in service awards for various problems in the apartment and loss of garage use; and denying a rent increase because of failure to make needed repairs. Landlord argued that the Rent Board had no jurisdiction over the case since he was the owner-occupier of the two-unit building.

The Commissioners listened to testimony on the following single issue: On the date the petition was filed - January 23, 1984 - did the Rent Board have jurisdiction over the property; or was the building exempt from the Ordinance because of owner-occupancy?

Landlord stated that he purchased the property and moved into one of the two units in the Spring of 1981. In the Summer of 1982 he left the country for approximately one year, returning in either August or September of 1983, at which time he moved back into the building. Both parties agreed that at the time tenant filed her petition with the Rent Board, landlord had most recently lived in the building approximately only five months. Landlord believed that he need only live in the building for any six month period to make it exempt, and that he had satisfied this requirement during the 1981-1982 period. He further challenged the Rent Board's authority to make any determination at this time, since he had recently achieved owner-occupancy status in approximately February 1984.

MSC: To find that the Rent Board had jurisdiction over the case on the date that the tenant filed her petition.
(Payne/Moy: 5-0)

VI. Communications

A. A letter was received from tenants at 130 Frederick, protesting that the landlord had filed an appeal without fulfilling the requirement of stating the reasons for the appeal. Although the deadline for filing a reply was quickly approaching, tenants had no information on which to base a response.

The Commissioners instructed the Staff to write the involved tenants, informing them they would be given additional time to respond if the landlord meets the later deadline; if not, the Commissioners will decide whether or not to deny the appeal.

- B. The Hearing Officer in the case concerning 737 Monterey Blvd. wrote a response to the appeal on that property.
- C. The tenant at 421 Leavenworth wrote in support of her award up on appeal.
- D. The landlord at One Charlton Court #304 wrote to protest the decision in that case, relating to an alleged wrongful eviction.

VII. Director's Report

- A. Executive Director Hernandez informed the Commissioners that Morley Saffer from "60 Minutes" would be interviewing him concerning landlord Guenter Kaussen.
- B. The Civil Service meeting to reclassify Rent Board Staff positions has been delayed and will be rescheduled for the near future.
- C. Director Hernandez discussed a current writ filed by Golden Gateway tenants against the Real Estate Department.
- D. Mr. Hernandez told the Board that Park Merced tenants filed a writ.
- E. Director Hernandez will be testifying in a Rent Board case before the Court of Appeals.

VIII. Old Business

- A. The City Attorney's office will discuss the issue of whether the Rent Board has jurisdiction over rent increases noticed during the two-year moratorium period of condo conversions.
- B. Since it appears there is no established policy on Hearing Officer conflicts of interest, Commissioners Astle and Chinchilla have volunteered to draft a policy for the Board's consideration.

IX. New Business

- A. The Commissioners would like to calendar a discussion concerning the scope of the Hearing Officer's role in informing parties of their rights--under the rent law--for which they have not petitioned or of which they are not aware; eg; allowable interest on capital improvements.
- B. The eviction cases scheduled for discussion at this meeting will be postponed until September 4, 1984.
- C. A Hearing Officer brown bag luncheon will be held at noon September 7, 1984. The Commissioners were invited to attend.

X. Adjournment

Vice-President Chinchilla adjourn the meeting at 7:15 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, September 4, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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I. Call to Order

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President Baird called the meeting to order at 5:33 p.m. SAN FRANCISCO

II. Roll Call

Commissioners Present: Baird, Flynn, Astle, Chan, Jackson, Marshall

Commissioners not Present: Alviar, Chinchilla, Payne, Moy

Staff Present: Henley, Hernandez, Wicks

III. Approval of the Minutes

MSC: To approve the Minutes of August 28, 1984.
(Astle/Jackson: 5-0).

IV. Consideration of Appeals

A. 555 Buena Vista

Landlord appealed Hearing Officer's determination that disallowed some capital improvement costs and which required landlord to reissue 30-day notice of the increase. The estimator's report found the claimed improvement costs to be excessive and allowed approximately one-third of the requested amount. Hearing Officer allowed an additional 10 percent but refused certain costs because of inadequate documentation. Landlord protested that no interest cost had been allowed; that an approved decrease in service rebate was excessive; and that costs related to the work should be reimbursed.

MSC: To accept the appeal and remand the case to a
Hearing Officer to consider:

1. The 10 percent interest request;
2. the decrease in service award;
3. the anniversary dates;
4. reconsider some of the equipment and supply costs related to the capital improvements.

(Astle/Jackson: 5-0).

B. 1294 Fell St.

Landlord appealed Hearing Officer's decision allowing tenant a substantial decrease in services award for the period of a year, to compensate her for a severe pest problem, lack of security, and

general uncleanliness of the premises. A \$40 capital improvement charge, never petitioned for at the Rent Board, was declared null and void. Also denied was an improper 7 percent increase; and a proper 4 percent increase was stayed until certain problems were abated. Landlord maintained that the building had no habitability problems and that the Rent Board could not grant rent reductions for past problems.

MSC: To deny the appeal and uphold the Hearing Officer. (Astle/Chan: 4-1; Flynn dissenting).

C. 2361 Bryant

Landlord appealed Hearing Officer's decision that declared two rent increases null and void, one because it was imposed six months after the previous increase and the other because it exceeded the allowable guideline amount. Landlord was advised to wait the proper time period and "bank" the voided amounts. Landlord insisted she had already reimbursed tenants for overpayments by allowing them to pay less rent than the allowable amount.

MSW: To accept the appeal and remand the case to a new Hearing Officer for a de novo hearing. (Astle/Flynn).

MSC: To deny the appeal and uphold the decision of the Hearing Officer. (Flynn/Chan: 4-1; Astle dissenting).

D. 289 States

Landlord appealed the Hearing Officer's ruling that a rent increase was null and void, that tenants were due a decrease in service award, and that an attempted eviction of one of the tenants appeared to be retaliatory. Landlord insisted that she had believed she could convert the basement to an apartment for herself but was told to stop work by city authorities; because her loan depended on owner-occupancy, she then attempted to evict one of the tenants in order to live in the building herself. She also maintained that the tenants had agreed on the increase because they knew landlord had incurred sizable costs in purchasing and remodeling the building.

MSC: To uphold the Hearing Officer and deny the appeal. (Flynn/Astle: 5-0).

V. Remarks from the Public

- A. The landlord from 2361 Bryant spoke concerning her case.
- B. The landlord from 289 States asked the Commissioners several procedural questions.
- C. Ted McCalla from Old St. Mary's Housing made several comments about the meeting.

VI. Appeal Hearing

1.

An appeal hearing was scheduled for 6:00 p.m. and began at 6:13 p.m. Present were tenant-appellant Elena Engel Amodei and landlord-respondent Leonard Thompson.

Tenant had appealed Hearing Officer's decision that ruled on a continuing dispute, based on an earlier conciliation reached by the parties before the Rent Board. Landlord's proposed increase had been stayed, pending completion of needed improvements. Landlord did not make the agreed-on repairs by the specified time, so tenants did the repairs and deducted a small portion of the cost, calculating the amount of the lost stayed-increase as the balance of the reimbursement of their cost. Hearing Officer ordered landlord to pay tenants for the cost of the work and allowed landlord to assess a capital improvement charge for the work, as well as a banked amount to include the stayed increase. Tenant felt landlords had forever lost the disputed annual increase and that no capital improvement cost should be allowed since the necessary work was based on a health hazard cited by BBI.

After listening to the testimony of both parties, the Commissioners encouraged the disputants to attempt to reach a compromise. After retiring to discuss the issues, the parties returned with the following settlement agreement:

Beginning September 15, 1984, tenant shall pay a monthly rental of \$481.00. No other sums remain at issue or in dispute.

After reviewing the settlement, the Board approved the following motion:

MSC: To accept the settlement reached by the parties.
(Astle/Flynn: 5-0).

VII. Consideration of Allegations of Wrongful Evictions

A. 80- 7th Ave., #3 and #10

Landlord indicated an intention to evict tenants for several reasons, after being told by the Rent Board that his original attempt to evict was based on improper grounds.

MSC: To accept the case for a hearing at the Board level. (Astle/Flynn: 5-0).

B. One Charlton Court #304

Landlord attempted to evict a tenant for occupancy by one of his daughters. Other units becoming vacant were rented to owner's other daughters. Nonconforming uses of several of the units were cited by the Department of City Planning; and tenant felt the resulting necessary conversion should have been done for landlord's remaining daughter. The dispute is currently in court.

MSC: To take no action on this case. (Flynn/Astle: 5-0).

C. 2433 Franklin St.

Eviction Counselor Janet Henley gave an update on this building.

D. 917 Folsom St.

Ms. Henley reported that the tenants have informed her the situation in this building is satisfactory at this time.

E. Attorney Censure

Ms. Henley informed the Commissioners of the progress on this matter, currently being handled by the District Attorney's office.

MSC: To send a letter to Arlo Smith encouraging them to take action on both the case at 2433 Franklin and the attorney censure matter.

VIII. Communications

- A. 864 Ellis St. - The tenant wrote the Board to inform them that the settlement reached by the parties - in lieu of a noticed appeal hearing - had not been honored by the landlord. It was the consensus of the Board to reschedule the case for an appeal hearing before the Commissioners.
- B. 434 Moscow St. - The decision resulting from the August 28 appeal hearing was approved by the Commissioners.
- C. 555 Buena Vista - One of the tenants in this case wrote the Board expressing several concerns.
- D. Notice of rescheduling of the case for 801 Jones St. was distributed.

IX. Director's Report

- A. Executive Director Ricardo Hernandez commented on the recent articles in the Chronicle and Recorder concerning the Golden Gateway Tenants' Association successful suit concerning some capital improvements certified by the Real Estate Department. Because of a misleading article in the Chronicle, the staff has received many alarmed calls from both landlords and tenants.

- B. Mr. Hernandez discussed the avalanche of calls related to the security deposit interest law. He expressed the staff's frustration at dealing with questions that have no tested "answers" yet; and of the public annoyance at discovering the Rent Board has no jurisdiction over the matter.
- C. Supervisor Hongisto and Director Hernandez will meet September 6, 1984, to discuss the office computer system.
- D. Mr. Hernandez reported on the status of the current certification process of employees under the Civil Service System.

X. Old Business

- A. Appeals Attorney Alicia Wicks reported her recommendation in cases where appellants do not submit statements in support of their appeals. It was the consensus of the Board to approve the proposed procedure:
 - 1. If supporting documents are received from appellant by the date noted on the Notice of Appeal Consideration, respondent will be given an additional two weeks in which to respond.
 - 2. If appellant does not respond by the above date, the Rent Board has the option of dismissing the appeal. Any reasonable excuse offered by appellant will be considered in deciding whether or not to dismiss the appeal.

XI. New Business

- A. The Commissioners indicated a desire to discuss, at some future date, the situation in which the Rent Board learns that a party refuses to abide by a Hearing Officer's decision.

XII. Calendar Items

September 11, 1984:

2 appeal considerations
1 appeal hearing

September 18, 1984:

7 appeal considerations
1 appeal hearing

XIII. Adjournment

President Baird adjourned the meeting at 7:26 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, September 11, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Baird called the meeting to order at 5:31 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Payne, Astle,
Marshall

Staff Present: Hernandez, Wicks

Commissioner Jackson appeared on the record at 5:33 p.m. Commissioners
Chan and Flynn appeared on the record at 5:36 p.m. Commissioner Moy
appeared on the record at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 4, 1984.
(Alviar/Chinchilla: 4-0).

IV. Consideration of Appeals

A. 207 Gough St.

Landlord appealed Hearing Officer's determination that allowed
only some of the requested capital improvements and granted tenants
a number of decrease in services awards. Landlord protested that
he had no notice of tenants' complaints and was not prepared to
refute their arguments because tenants had not filed petitions on
their issues.

MSC: To remand the case to a new Hearing Officer for
a new hearing. (Chinchilla/Payne: 4-0).

B. 1499- 32nd Ave.

Landlord protested Hearing Officer's award to tenants for decreases
in service. Rent Board staff had verified that tenants had written
the incorrect address for landlord, and that notice of the hearing
and the decision were never received by the landlord.

MSC: To remand the case to a Hearing Officer for a de
novo hearing. (Payne/Alviar: 4-0).

V. Executive Session

The Commissioners went into Executive Session at 5:35 p.m. to discuss
staff appearances in court. They returned on the record at 6:09 p.m.
after making the following motion:

MSC: In the absence of a subpoena, when the Rent Board is not a party to the action and is not accompanied by the City Attorney, no staff member shall be required to go to court, unless so directed by the Commissioners at a legally-constituted meeting. (Alviar/Payne: 5-0).

VI. Appeal Hearing

1. 1964 Pacific Ave., #4

An appeal hearing was scheduled for 6:00 p.m. and began at 6:14 p.m. Appearing were landlord-appellant Anton Fuchs and tenant-respondent Antonio Rossmann.

Landlord had appealed Hearing Officer's decision disallowing a \$300 rent increase for a new roommate.

Tenant began his tenancy in 1971 with his former wife. Approximately nine years later the parties separated and filed for dissolution of their marriage. As part of their property settlement, in 1980 they entered into a joint tenancy agreement concerning the apartment.

In February 1982, tenant entered into a one-year lease with the former owner. The lease stated that tenant would not allow another person to live in the unit without written consent of the owner. Appellant purchased the property in July 1982. He testified that he had reviewed all the existing rental agreements and was under the impression that only one person lived in the subject unit.

While working around the building in 1983, landlord first became aware that a second tenant resided in the unit. Because of the presence of the new tenant--and documented increases in utilities and water resulting from the increased tenancy--the appellant attempted to raise the rent \$150 for the new resident. Failing to negotiate an agreement, landlord sent tenants a notice for a \$300 increase.

Landlord testified that his understanding was that only one person resided in the unit as evidenced by the lease, and that he was entitled to an increase for the unapproved additional tenant. Respondent contended that he had never intended to give up the right to have a second tenant in the unit; and that just as the rent was not lowered when only one person lived there, neither should it be raised when a second person again took up residence.

Having listened to the testimony, the Commissioners encouraged the parties to retire to attempt to reach a settlement. The hearing was closed at 6:44 p.m.

After discussing the issues, the parties returned with the following settlement agreement:

As of October 1984 the rent shall be \$675. March 1, 1984, shall be the rent increase anniversary date.
Two parties are allowed to live in the unit.

Having reviewed the settlement the Board approved the following motion:

MSC: To accept the settlement reached by the parties.
(Flynn/Chinchilla: 5-0).

VII. Communications

- A. The Commissioners were given copies of a newspaper article concerning the recent sale of the John Muir Apartments.
- B. An article discussing the rehiring of Guenter Kaussen employees was distributed.
- C. The Rent Board counseling statistics for August 1984 were given.
- D. The appeal decision for 239 San Jose Avenue was approved by the Board. The Commissioners asked that the decision clearly state the anniversary date.
- E. A letter to President Baird concerning attorney reprimand procedures was received from the State Bar of California.
- F. An article on security deposit interest was given to the Board.
- G. A draft letter to District Attorney Arlo Smith was submitted to the Commissioners, along with supporting documents. Several changes were suggested.

VIII. Director's Report

- A. Executive Director Ricardo Hernandez informed the Board that he would be giving a talk to a housing class at San Francisco Community College September 12, and that he and staff member Delene Wolf would be speaking to the Chinese Real Estate Association September 19.
- B. Mr. Hernandez told the Board that questions on security deposit interest comprised the majority of the calls received by the staff in recent weeks.
- C. Supervisors Walker and Molinari would like the staff to suggest problems with and changes for the city Security Deposit Interest Ordinance.

IX. Old Business

- A. Several Commissioners requested that the Deputy City Attorney for the Rent Board attend a Commission meeting in the near future to discuss several aspects of the condo conversion Ordinance.

X. Calendar Items

September 18, 1984

- 7 appeal considerations
- 1. appeal hearing

September 25, 1984

- 2 appeal considerations
- 1 eviction hearing

XI. Executive Session II

At 7:05 p.m. the Commissioners again went into Executive Session. Topic B - scope of advice to parties by Hearing Officers - was tabled for another meeting. Added to the agenda was topic C, the propriety of the Board's directing staff members to act on "orders" issued outside of a legally constituted meeting.

The Commissioners adjourned the Executive Session at 7:10 p.m.

XII. Adjournment

President Baird adjourned the meeting at 7:11 p.m.

9/13/84:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, September 18, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Vice-President Chinchilla called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Alviar, Chinchilla, Marshall, Payne

Commissioners not Present: Baird, Jackson

Staff Present: Hernandez, Wolf

Commissioner Flynn appeared on the record at 5:43 p.m. Commissioner Chan appeared on the record at 5:35 p.m. Commissioner Astle appeared on the record at 5:40 p.m. Commissioner Moy appeared on the record at 5:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 11, 1984.
(Alviar/Marshall: 4-0).

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IV. Appeal Considerations

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A. 4605 Balboa St.

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Landlord appealed Hearing Officer's decision awarding a retroactive rent reduction due to inadequate building security; increasing the amount of a rent reduction due to loss of a garage space; and denying a rent increase due to a failure to make requested repairs. Landlord also objected to the Hearing Officer having used a PG&E auditor's estimation of projected additional costs in compensating tenants for the conversion from steam to electric heat.

MSF: To deny this appeal. (Marshall/Alviar: 2-3).

MSC: To remand this case to a new Hearing Officer with instructions to use the Board's previous policy which determines the landlord's savings in compensating tenants for the conversion from steam to electric heat; and to consider whether the lack of a door lock constitutes a decrease in housing services or a failure to make requested repairs. (Flynn/Chinchilla: 4-1; Marshall dissenting).

B. 1110 A South Van Ness Ave.

Landlord appealed Hearing Officer's decision which found an illegal rent increase and wrongful eviction. Tenant had vacated the building due to a fire. After renovation work, the landlord claimed that the building had become exempt from the Rent Ordinance due

to substantial rehabilitation and rented to a new tenant at substantially higher rent. Landlord claimed that no eviction had taken place, that the Rent Ordinance only applies to situations where a landlord attempts to terminate by notice or demand, and that state law pre-empts Rent Board jurisdiction over this matter.

MSC: To accept this appeal and schedule a de novo hearing at the Board level. (Payne/Flynn: 3-2; Alviar and Marshall dissenting).

C. 101-125 Buckingham Way

Landlord appealed Hearing Officer's decision award of a retroactive rent reduction due to a decrease in housing services. The subject property had previously been under HUD jurisdiction and is now covered by the Rent Ordinance. Landlord's previous policy had been to paint every five years; the policy now is that landlord will only paint the interior of a unit if the tenant agrees to pay the amortized cost. Landlord's position is that the cost of painting had previously been figured into HUD's annual adjustment and that therefore no new charges were being levied against tenant.

MSF: To deny this appeal. (Marshall/Alviar: 1-4).

MSC: To accept this appeal and schedule a de novo hearing at the Board level. (Flynn/Alviar: 5-0).

D. 1950 Gough St.

Landlord appealed Hearing Officer's decision which determined that garages are part of housing services and are therefore included in base rent when calculating the annual rent increase; awarded a retroactive rent decrease due to the temporary removal of a washer machine and dryer; and gave a retroactive rent reduction due to a defective radiator.

MSC: To remand this case to the same Hearing Officer for a new hearing limited to the issue of whether a defective radiator constitutes a decrease in services or a failure to repair. (Marshall/Alviar: 4-1; Flynn dissenting).

E. 540 Capp

Landlord appealed Hearing Officer's decision which awarded a retroactive rent reduction due to insufficient pest control services. Landlord's position is that the pest infestation problems are caused by the tenants being unsanitary.

MSC: To remand this case to a new Hearing Officer for a new hearing on the issue of pest control. (Flynn/Alviar: 4-1; Marshall dissenting).

F. 91 Central

Landlord appealed Hearing Officer's determination that he was not entitled to "bank" rent increases accumulated when the building had come out from under RAP jurisdiction, but that he was not legally entitled to under the provisions of the Rent Ordinance.

MSC: To excuse Commissioner Flynn from consideration of this appeal. (Alviar/Chinchilla: 5-0).

MSF: To accept this appeal.

MSC: To deny this appeal. (Alviar/Chinchilla: 3-1; Payne dissenting).

G. 801 Jones St.

Tenant appealed Hearing Officer's determination that he was no longer entitled to a continuing rent reduction and denial of landlord's annual rent increase due to construction noise in conjunction with building renovation.

MSC: To deny this appeal. (Payne/Flynn: 4-1; Marshall dissenting).

V. Appeal Hearing

1. 495- 32nd Ave.

At 4:45 p.m., Rent Board staff received a phone call from landlord's representative, Mark Paillasou, stating that he was ill and could not attend the scheduled hearing and that he was the only individual capable of presenting the landlord's case. Mr. Paillasou was informed that staff was unable to grant a continuance at this stage, and he was encouraged to send a representative to personally request that the Commissioners grant his request. Mr. Paillasou stated that he would attempt to do so and was informed that his message would be forwarded to the Board. The Board wished the Minutes to reflect the fact that several tenants did attend at the scheduled time and expressed strenuous objection to a continuance being granted. No representative of the landlord appeared.

MSC: To continue this case for one week due to landlord's illness and calendar this Appeal Hearing for 6:00 p.m. on September 25, 1984. (Payne/Astle: 5-0).

VI. Communications

- A. Board members received a copy of Landlord's Closing Memorandum in Support of their Appeal, which will be considered next week., from Park Merced Company.

- B. The Board received a copy of an article in the September 14th Chronicle regarding San Francisco's low vacancy rate.
- C. The Board reviewed a copy of a proposed letter from Board President R. Stewart Baird to District Attorney Arlo Smith.
- D. The Board received a copy of a letter from Jeffrey Lee, Director of Public Works, to Edward Wynne, landlord's attorney, regarding a rent increase for the condominium located at 2503 Union Street.
- E. The Board approved appeal decisions resulting from Board hearings regarding the properties at: 1964 Pacific Ave., #4; 2005 Lyon St.; and 2665-67 Sacramento St.

VII. Director's Report

- A. Executive Director Hernandez reported that interviews for the six available Citizen Complaint Officer positions are proceeding, and that the Civil Service Commission approved staff's recommendation regarding classification of management positions at the Rent Board.
- B. Director Hernandez reported on his presence at the Board of Supervisor's Planning, Housing and Development Committee, where policies regarding artists' live/work space and roommate evictions are under consideration.

VIII. Old Business

There was no old business.

IX. New Business

There was no new business.

X. Calendar Items

September 25, 1984:

- 2 appeal considerations
- 1 appeal hearing

Executive Session regarding scope of Hearing Officer advice to parties

October 2, 1984:

- 4 appeal considerations
- 2 appeal hearings

XI. Adjournment

Vice-President Chinchilla adjourned the meeting at 7:16 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, September 25, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Baird called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Astle, Baird, Marshall, Chinchilla, Flynn,
Payne
Staff Present: Hernandez, Francis

Commissioners Alviar and Jackson appeared on the record at 5:34 p.m.
Commissioner Chan appeared on the record at 5:40 p.m. and Commissioner
Moy at 5:42 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 18, 1984 as
follows: "IV., F, page 3: MFS: To accept this
appeal. (Payne/)." (Chinchilla/Astle: 5-0).

IV. Appeal Considerations

A. Parkmerced (Landlords')

Landlord appealed Hearing Officer's decision which ordered an award
for decrease in services to some tenants and not others and ordered
the landlord to adjust their means of computing the PG&E pass-
through.

MSC: To accept this appeal and schedule a de novo
hearing at the Board level on the issues of:

- 1) Decrease in services award to tenant
Conrad;
- 2) the use of the lifeline rate for the laundry-
room utilities;
- 3) which billing statements may be used; and
- 4) the correct comparison periods.
(Flynn/Alviar: 5-0).

At 6:00 p.m. Commissioner Flynn went off the record.

B. 130 Frederick St. #201, 206

Landlord appealed Hearing Officer's decision which set the tenants'
anniversary date as July 1, 1983. Landlord had originally served

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notices of rent increase to be effective May 1, but postponed their imposition to July 1.

MSC: To accept the appeal de novo at the Board level.
(Chinchilla/Alviar: 5-0).

V. Appeal Hearing

1. 495- 32nd Ave. (original consideration August 14, 1984)

The hearing convened at 6:16 p.m. Present was the landlord's representative, Mark Pallassou, and tenants Ellis Brix-Kjelgaard, Bobby Martin, Leonard Lurie, Sheila Barrett, and Alyce Croxdale.

This hearing was the result of a landlord's appeal of the Hearing Officer's decision's denial of certain alleged operating and maintenance expenses. These expenses included long distance telephone calls, plane fare between Los Angeles and San Francisco, bridge tolls and mileage expenses, legal fees, and "miscellaneous" management expenses. These expenses were incurred as a result of the landowner's grandson's participation in the management of this twelve unit building.

The grandson, Mark Pallassou, testified that he had taken an active part in the management of this family-owned building when his father died and his grandfather became ill. He, however, does reside in Santa Monica. The tenants responded that they did not feel that all of the expenses were adequately documented.

MSF: To uphold the Hearing Officer's decision to deny certain expenses, except for legal fees of \$221.00.
(Chinchilla/Payne: 2-3; Moy, Payne, and Baird dissenting).

MSC: That \$1000 of the previously denied expenses be allowed as operating expenses (Payne/Moy: 3-2; Chinchilla and Alviar dissenting).

Commissioner Chinchilla, Alviar and Jackson went off the record at 7:05 p.m.

V. Communications

- A. The Board received a copy of a letter addressed to Mr. Hernandez from Assemblyman Art Agnos, complimenting his staff, particularly Ms. Henley and Mr. Vitranco, on their assistance in aiding his constituents and staff on clarification regarding issues under the Rent Ordinance.
- B. Board members received a letter from the District Attorney requesting our appearance at a meeting on the arrest warrant procedure.
- C. The Board received a copy of a letter written by Mr. Hernandez to the Planning, Housing and Development Committee on artist live-work spaces.

- D. Letters were received from both the landlord's attorney requesting a 21-day postponement of appeal hearing and the tenant's attorney (requesting a withdrawal of petitions).

MSC: To postpone the Appeal Hearing for 21 days.
(Astle/Payne: 5-0).

- E. The Board received a copy of a confidential letter written by the City Attorney to the District Attorney. This letter will be discussed in Executive Session at the end of the meeting.

VII. Director's Report

- A. The Executive Director reported that the proposed Ordinance amendment- eviction of sublessees for no just cause- has been passed out of PHD and will go before the full Rent Board in two weeks.
- B. The Executive Director reported that ISD is proceeding with plans for the computer installation.
- C. A Supplemental Appropriation request has been submitted to fund newly reclassified positions on the Rent Board staff.

VIII. Old Business

- A. Commissioner Astle reported that she and Commissioner Chinchilla are researching a new conflict of interest directive for Hearing Officers.
- B. The Commissioners requested that the letter regarding Franklin Street, addressed to the District Attorney, be prepared for their signature for next week.

IX. Calendar Items

October 2, 1984

1. 4 appeal considerations
2. 1 appeal hearing

October 9, 1984

1. 7 appeal considerations
2. 1 appeal hearing

X. Executive Session

The Board discussed a procedure if the landlord or tenant does not follow the Hearing Officer's decision, and the reviewed letter from the City Attorney.

XI. Adjournment

President Baird adjourned the meeting at 7:50 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, October 2, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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I. Call to Order

President Baird called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Payne, Astle,
Chan, Marshall.

Commissioners Not Present: Jackson, Moy

Staff Present: Hernandez, Wicks

Commissioner Flynn appeared on the record at 5:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 25, 1984, with the fol-
lowing correction: Page 3, VII Director's Report, A. "will
go before the full Board of Supervisors..."
(Alviar/Chinchilla: 4-0)

Commissioner Payne suggested that there was no need to include in the
Minutes motions that fail for lack of a second.

IV. Appeal Considerations

A. 3005 Clay Street #3, #6 and #8

One Tenant appealed Hearing Officer's decision granting a rent rebate
for payments imposed for capital improvements that had not been certi-
fied by the Rent Board; and for the change from steam heat furnished by
the landlord to electric heat paid by the tenants. Tenant appealed be-
cause she felt she had not been given the proper amount of rebate.

Landlord also appealed on various issues, including the fact that she
never received notice of the hearing.

MSC: To consolidate the two appeals and remand the case to a
hearing officer for a new hearing.
(Alviar/Chinchilla: 4-0)

B. Parkmerced Tenants

(552 Arballo Drive; 405 Serrano Drive 10-K; 125 Cambon Drive 1-E)

Three tenants appealed Hearing Officer's decision to the extent that
Hearing Officer found no decrease in service in the change of the
type of security guard service furnished. Hearing Officer determined
that no evidence of a substantial decrease was shown. Tenants main-
tained that fewer security guards are now on the premises and that
the scope of authority of the present guards is much more restricted

than that of the previous guards.

MSC: To accept the appeal and combine the case with the landlord's appeal - previously accepted - for a de novo hearing at the Board level.

(Payne/Alviar: 4-1; Flynn dissenting)

It was the consensus of the Commissioners to continue the case - already noticed on the landlord's appeal for November 6, 1984 - because it is set for election day. The combined case will be renoticed for November 13, 1984.

C. 1950 Gough Street #401

The case is continued to October 9, 1984.

D. 2767 McAllister

Landlord appealed Hearing Officer's determination that tenant should be awarded a monthly sum of \$45.00 to compensate her for loss of use of storage space when the property changed owners. Current landlord protested that there was no agreement between tenant and previous landlord giving her use of the storage space.

MSC: To accept the case de novo at the Board level.

(Flynn/Chinchilla: 5-0)

V. Communications

- A. The Hearing Officer and the tenant for the case at 2767 McAllister submitted written statements to the Board.
- B. The Board was given copies of their policy directive concerning the disallowing of legal fees related to Rent Board matters (Policy Directive 1982-2).
- C. A letter from appellants Sunderhaus and Leigh was received, with attachments, in lieu of their appearance at the noticed appeal hearing for October 2, 1984, concerning 864 Ellis #52.

VI. Old Business

- A. The Commissioners approved the final draft of a letter to District Attorney Arlo Smith concerning two cases referred to their office by the Rent Board for possible prosecution for wrongful eviction.
- B. Commissioner Astle discussed the Hearing Officer Code of Professional Conduct (February 9, 1983).

MSC: To adapt the proposed code as final.

(Flynn/Alviar: 5-0)

VII. Director's Report

- A. Executive Director Hernandez discussed preparation of the Rent Board offices for installation of the computer system.
- B. The Senior Staff at the Rent Board will be attending management training seminars over the next three months.
- C. Director Hernandez mentioned that the Staff Citizen Complaint Officers will be certified as permanent in the next two weeks. The eviction unit and senior staff positions will be reviewed by Finance.

VIII. Calendar Items

October 9, 1984

6 appeal considerations
1 appeal hearing

October 16, 1984

4 appeal considerations
1 appeal hearing
1 eviction hearing

IX. Appeal Hearing

864 Ellis #52

Landlord had appealed Hearing Officer's reduction in service award of 50 percent of a tenant's rent for severe leakage and ceiling damage. Tenant had maintained that the ceiling had to be covered with plastic and held up by scaffolding, making part of the apartment untenable.

Tenant further had testified that management had actual and constructive notice of leaks and damage in this unit and the building as a whole. Landlord had appealed on the basis that no notice had been given, that photos submitted were from another unit, that the award was excessive, and that a contractor would make repairs at a considerable expense.

On the date set for the original appeal hearing (July 31, 1984), the parties informed the Commissioners that they had just reached a settlement moments before. The Board requested that a written copy of the settlement agreement be forwarded to them.

Because no written agreement was received by the Board, a letter requesting confirmation of the settlement was sent to the parties on August 6, 1984. On August 31, 1984, the tenant wrote the Commissioners stating that the landlord would not give her a copy of the settlement and that the repairs were not performed as agreed on July 31st. It was the consensus of the Board to reschedule the hearing.

Accordingly a hearing was set for October 2, 1984. That morning landlord's representative phoned the Rent Board to state that nobody from the landlord's office would attend the hearing; that attempts had been made to contact the tenant; and that bids for the repair work had been received. The Appeals Attorney advised landlord's representative to submit something in writing to the Commissioners; they did so in lieu of attending the hearing.

The appeal hearing was convened at 6:07 p.m. with tenant-respondent Lauren White appearing on her behalf. She testified that no work had been performed on the building for nearly one year and that even that had been done incorrectly and ineffectively. Department of Public Workshad cited landlord for the leakage problem. Tenant also testified that Department of Public Workshad cited the malfunctioning elevator in July 1984. Tenant stated that several tenants in the building are in their 80's and 90's.

Tenant stated that she had not received the rent rebate ordered by the Hearing Officer and that she had continued to pay her full rent rather than the lower amount granted by the Hearing Officer, both on the instruction of the landlord. The hearing ended at 6:25 p.m.

Having reviewed the testimony and documentation, the Commissioners made the following motion:

MSC: To uphold the Hearing Officer's decision and deny the landlord's appeal. If the overpayment of rent is not refunded to the tenant by the date her November rent is due, she shall pay no rent until the amount of the overpayment has been equaled. Unless the work has been performed by the time the full overpayment adjustment has been realized, tenant shall pay the reduced monthly rent granted in the Hearing Officer's decision until the work has been completed.
(Flynn/Chinchilla: 5-0)

X. Adjournment

President Baird adjourned the meeting at 6:28 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 9, 1984 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

Vice-President Chinchilla called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Alviar, Chinchilla, Payne, Astle, Jackson, Marshall.

Commissioners Not Present: Baird, Flynn.

Staff Present: Hernandez, Wicks.

Commissioner Chan appeared on the record at 5:34 p.m. and Commissioner Moy at 5:49 p.m. Commissioner Alviar went off the record at 6:55 p.m.

III. Approval of the Minutes

To approve the Minutes of October 2, 1984.
(Marshall/Alviar: 4-0)

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IV. Appeal Considerations

A. 3801A -18th Street/604 Church

Landlord appealed Hearing Officer's decision that disallowed certain capital improvements because tenants had moved in within six months before the work commenced. Landlord submitted documents on appeal to show that not all of the work had been done during this "moratorium" period.

MSC: To remand the case to the Staff for review of the facts, with the discretion to make technical corrections or schedule a further hearing.
(Payne/Alviar: 4-0)

B. 140-A Clinton

Tenant appealed Hearing Officer's determination that no substantial decrease in services had been proved by the tenant from a plumbing problem in his bathroom. Tenant's toilet clogged and the repair-person poked a hole through the sewage pipe. Tenant insisted that he couldn't use the facility for ten days for fear of sewage leakage.

MSC: To uphold the Hearing Officer and deny the appeal.
(Payne/Marshall: 4-0)

C. 250 Taylor

Landlord appealed Hearing Officer's ruling that allowed tenants a \$10.00 per month decrease in service award for removal of the buzzer

system that allowed tenants to buzz in guests and servicemen from their apartments. Landlord protested that he had removed the system for security reasons and that tenants should instruct their visitors to call from a nearby phone. Landlord also protested disallowance of a 7% increase given after the annual amount changed to 4%.

MSC¹: To allow Commissioner Payne to be excused from this case.
(Alviar/Marshall: 4-0)

MSC²: To uphold the Hearing Officer and deny the appeal.
(Marshall/Jackson: 4-0)

D. 812 Taraval

Both landlord and tenant appealed Hearing Officer's decision that found a mixed residential-commercial use of an apartment to be under the jurisdiction of the Rent Ordinance, thus voiding a rent increase over the guideline amount. Tenant maintained that Hearing Officer had used the wrong dates for voiding the last rent increase and had failed to void increases for 1982 and 1980. Landlord appealed the ruling that the Rent Board had jurisdiction over the case. Landlord maintained that tenant used the premises predominantly as a sewing school, as was demonstrated by improvements made to adapt the unit to such use, by signs on the building, and advertisements in the phone book. Landlord also questioned whether the apartment is tenant's principal residence, since her husband resides at another address. Finally, landlord noted that tenant has commercial insurance on the property and has paid "commercial" rent for several years, i.e., rents above the guideline amounts for residential tenants.

MSC: To accept both appeals for a de novo hearing at the Board level.
(Payne/Alviar: 5-0)

E. 70 Caselli

Landlord appealed Hearing Officer's ruling that disallowed all operating and maintenance expenses. Landlord had submitted only sample garbage bills and had refinanced a balloon payment one year earlier than necessary. Landlord protested that garbage costs are repetitive and the relevant bills had been submitted; and that there is no prohibition against early refinancing.

MSC: To remand to a new Hearing Officer for a de novo hearing.
(Payne/Marshall: 5-0)

F. 1950 Gough #401

Tenant appealed Hearing Officer's determination that tenant - formerly a resident manager - had not established that she was entitled to two parking spaces, and that she needed more evidence to establish this right. On appeal tenant submitted letters from previous owner and manager, as well as an increase notice from current owner, that indi-

cated she was using two garage spaces. Since the original hearing landlord had sent tenant notice to vacate one of the spaces. Landlord maintained that since the parking issue had been denied in his own appeal of this case (considered September 18, 1984), tenant should not be granted her appeal on this same issue.

MSC: To remand to the Hearing Officer for consolidation with the remanded landlord's appeal.
(Payne/Alviar: 5-0)

V. Communications

- A. The Board received a letter from Mayor Feinstein with her review of the Rent Board's 1983-1984 Management-by-Objective performance. She commended the Rent Board Staff for their high level of performance.
- B. The Commissioners received the September statistics for the Counseling Unit. Also a breakdown of the number of security deposit inquiries for the last 15 months was passed out. The average number of calls from July 1983 through July 1984 was approximately 415; the average for August and September 1984 was 1,590.

VI. Director's Report

Executive Director Ricardo Hernandez commented on the construction work currently in progress to prepare the Rent Board office for installation of the computer system.

VII. Old Business

The subject of a retreat for the Commissioners was again discussed. It was the consensus of the Board to table the topic for one week to allow the Commissioners to consider mutually-agreeable dates.

VIII. Appeal Hearing

130 Frederick, #201 and #206

A hearing was scheduled for 6:00 p.m. and began on the record at 6:13 p.m. Appearing were landlord-appellant B&F Managements' representatives Nancy Lervin, Esquire, and manager Andria Plank; as well as tenant-respondents Sandra Noack and Belinda Orling.

At issue in the landlord's appeal was the appropriate anniversary date for the two involved tenants who filed the original petition in this case. Hearing Officer's decision had set the date as July 1, 1983. Landlord had originally served notices of rent increase to be effective May 1, 1983, but allowed a grace period of two months before the increases became effective.

At the de novo hearing before the Board, landlords' representatives contested the Hearing Officer's decision that judged the subject increases to be null and void since the "effective date" of the notices was July 1, not May 1, 1983; and that rent increases for May 1, 1984, were improper since they came ten months after the previous increase. Landlord's representative contended that the explicit language in the notice - that the anniversary date remained May 1 despite the grace period - controlled and that the rent increases should be ruled valid. She mentioned that the grace period was a gift to these and other tenants, that this was partly to compensate them for substantial capital improvement increases. The representative further contended that these notices were issued pursuant to discussions between landlord and tenants in which the parties agreed to this arrangement.

Respondent tenants protested that neither of them made any such agreement and neither one was in the area when the meeting concerning the grace period was discussed. Both felt the increase notice was wrong and that they had been incorrectly given a rent increase after only ten months. They further stated that other tenants in the building were allowed to keep the later anniversary date. They felt the grace period was to compensate tenants for "extensive inconvenience" during the renovation period.

Tenant Orling again raised the issue documented in the original hearing: with her annual guideline increases and the large capital improvement pass-through, the rent for her unrenovated apartment is higher than that of fully renovated units just rented in the last few months. She has been in her unit 3½ years.

After hearing the testimony, the Board closed the hearing at 7:15 and thereafter made the following order:

MSC¹: To accept the anniversary date in the notice; May 1, 1984.
(Payne/Astle: 4-1; Marshall dissenting)

MSC²: To uphold the Hearing Officer's ruling that the Rent Board has no jurisdiction to roll back tenant Orling's rent.
(Astle/Payne: 5-0)

IX. Calendar Items

October 16, 1984

4 Appeal Considerations
1 Appeal Hearing
1 Eviction Hearing

October 23, 1984

6 Appeal Considerations
2 Appeal Hearings

X. Adjournment

Vice-President Chinchilla adjourned the meeting at 7:32 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, November 13, 1984 at 5:30 p.m. at the State Building
350 McAllister St. #1158

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I. Call to Order

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President Baird called the meeting to order at 5:36 p.m.

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II. Roll Call

Commissioners Present: Alviar, Astle, Baird, Chan, Chinchilla,
Flynn, Payne
Commissioners not Present: Marshall

Staff Present: Hernandez, Wolf

Commissioners Jackson and Moy appeared on the record at 5:38 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 6, 1984.
(Alviar/Chinchilla: 5-0).

IV. Consideration of Appeals

A. 72 Lawrence

Tenant filed a Report of Alleged Wrongful Eviction and Petition for Arbitration regarding an alleged failure to repair. At the hearing the issue of lost rental income to the tenant was raised due to the tenant's having evicted a sub-tenant due to a Notice to Quit from the landlord, and a rent reduction due to decreased services was awarded by the Hearing Officer. Landlord appealed Hearing Officer's decision as no petition regarding decreased services had been filed.

MSC: To accept this appeal on the issue of decreased
services only and schedule a de novo hearing
at the Board level. (Flynn/Payne: 5-0).

B. 886 Alabama St.

Tenant filed a Report of Alleged Wrongful Eviction after receiving a Notice to Vacate based on landlord's wish to occupy the unit four days per week while attending school. Hearing Officer found that the attempted eviction was wrongful and recommended that the Board take further action if the eviction was pursued. Landlord appealed the finding on "jurisdictional" issues.

MSC: To deny this appeal and take no further action
on this case. (Alviar/Chinchilla: 5-0).

V. Appeal Hearing

1. 100 Font 1-M; M-C; 150 Font 11-H; 11-J; 125 Cambon 1-E;
310 Arballo 12-G; 552 Arballo; 405 Serrano 10-K (Parkmerced)

An appeal hearing was scheduled for 6:00 p.m. and began on the record at 6:15 p.m. Appearing for landlord-appellant were representatives Richard Kilmartin, Claude Scovill, and Guenter Meyer. Appearing for tenant-appellant was representative Ricardo Callejo and tenants Genevieve Callejo and Nathan Neimer. Numerous tenants were in attendance as witnesses.

Tenants had filed a petition requesting a rent reduction due to decreased services in the areas of security and recreation facilities and leaks in one tenant's apartment and protesting the landlord's method of calculating the PG&E pass-through. Hearing Officer made an award for the leaks but denied the tenants' other decreased service claims and ordered landlord to recompute their PG&E pass-throughs. Both sides appealed the Hearing Officer's decision.

The Board heard testimony on the following issues:

- a. The decrease in service award to tenant Conrad.
- b. Use of lifeline rates for laundryroom utilities.
- c. Which PG&E billing statements can be used.
- d. Which comparison periods are correct for purposes of computing the PG&E pass-through.

The hearing was closed at 7:35 p.m. After reviewing all documentation and listening to all testimony, the Commissioners made the following motions:

MSC: To vacate the Hearing Officer's decision regarding the decrease in services award to tenant Conrad. (Payne/Flynn: 5-0).

MSC: To vacate the Hearing Officer's decision regarding the use of lifeline rates for laundryroom utilities and approve the continued use of the rate currently being used by the landlord. (Chinchilla/Alviar: 5-0).

MSC: To vacate the Hearing Officer's decision regarding which PG&E billing statements can be used and uphold the current policy of the landlords in this regard. (Chinchilla/Payne: 5-0).

MSC: To allow an exception to Section 4.11 of the Rules and Regulations to allow this landlord to continue using the current comparison periods employed for calculating PG&E pass-throughs. (Chinchilla/Flynn: 4-1; Payne dissenting).

MSC: To uphold the Hearing Officer's decision regarding tenant's petition for rent reduction due to decreased security. (Flynn/Payne: 5-0).

VI. Communications

- A. The Board received a draft response to Mr. Levy at the Department of Public Works regarding ZIP loans.
- B. The Board received a copy of an article from the Los Angeles Journal regarding the Los Angeles Rent Board.
- C. The counseling statistics for the month of October were presented.
- D. The Board approved the decision regarding 2767 McAllister Street.

VII. Old Business

There was no old business.

VIII. New Business

- A. Commissioner Payne requested that the Board discuss, at some future date, guidelines for hearing issues that are brought up for the first time at the hearing itself.
- B. The Board briefly discussed a Holiday Party.
- C. The issue of changing the Board's mandatory meeting date will be added to the Agenda for the January Public Hearing. Staff will draft a proposed Rules change.
- D. The issue of electing new Board officers was discussed and it was the consensus of the Commissioners to postpone elections until after the Mayor's re-appointment process is completed.

IX. Appeal Hearing

1. 812 Taraval

An appeal hearing was scheduled for 6:45 p.m. Present were the landlord's daughter, the tenant, and their respective attorneys. Both parties indicated to the Board that they were attempting to reach a settlement, but that their efforts were stalled due to the illness of the landlord.

MSC: To continue this case for two weeks and re-schedule the Appeal hearing for November 27, 1984 at 6:00 p.m. (Alviar/Flynn: 5-0).



X. Remarks from the Public

- A. Ted McCalla of Old St. Mary's Housing Committee thanked the President for his earlier remarks about last week's discussion... that the discussions were about the flexibility of the mandatory monthly meeting, and not as reflected in the Minutes (IV B and VI).

XI. Adjournment

President Baird adjourned the meeting at 8:40 p.m.

11/16/84:ap

